TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 575.

JOHN T. GLENN AND GEORGE W. ADAIR, ASSIGNEES OF GEORGE JOHNSON, BANKRUPT, APPELLANTS,

vs.

GEORGE JOHNSON, F. W. FLYNN, AS TRUSTEE FOR MARGARET JOHNSON, AND MARGARET JOHNSON.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA.

FILED JANUARY 3, 1872.

SUPREME COURT OF THE UNITED STATES.

No. 575.

JOHN T. GLENN AND GEORGE W. ADAIR, ASSIGNEES OF GEORGE JOHNSON, BANKRUPT, APPELLANTS,

vs.

GEORGE JOHNSON, F. W. FLYNN, AS TRUSTEE FOR MARGARET JOHNSON, AND MARGARET JOHNSON.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA.

INDEX.

	Original.	Print.
Petition	1	1
Exhibit A	8	3
Answer of F. W. Flynn	11	4
Margaret Johnson	16	6
George Johnson	21	8
Replication	25	10
Decree	26	10
Appeal	27	11
Deposition of J. W. Barnley	30	12
F. W. Flynn	34	14
John Gavan	42	16
E. W. Holland	48	18
Peter Lynch	53	19
J. Bridewell	57	20
W. G. Knowles	61	21
F. Rice	66	23
B. J. Poole	71	24
P. Saunders	75	25
J. E. Williams	79	27
M. Daly	82	27
C. Powell	84	28
F. W. Flynn	86	31
George Johnson	90	32
Margaret Johnson	94	33
M. H. Dooly	102	38
T. S. Powell	105	39
Dr. R. S. Pomroy	107	40

	Original.	Print.
Deposition of J. McGee	109	40
James Purcell	112	41
J. Keely	113	42
Dr. J. P. Logan	116	42
M. Daly	118	43
M. Welch	120	44
List of debts	123	45
Bond	132	48
Clerk's certificate	135	49

1 UNITED STATES OF AMERICA,
Northern District of Georgia:

To Honorable John Erskins, judge of the district court of the United States for the northern district of Georgia:

The petition of John T. Glen and George W. Adair, both citizens and residents within the northern district of Georgia, and assignees of the estate and effects of George Johnson, bankrupt, duly appointed such assignees by Lawson Black, one of the registers in bankruptcy, under the provisions of the act of Congress, entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, respectfully showeth unto the honorable court that George Johnson, who is a citizen of and residing in said State of Georgia, and in the northern district thereof, has been adjudged a bankrupt, under and by virtue of the provision of said act of Congress, on his own petition, the same having been filed in this honorable court, and subsequent proceedings in the matter had in the same court.

Your petitioners further show that, as they are informed and believe, and so charge, that said George Johnson failed and refused to make a complete return, in his schedule annexed to his said petition in bankruptcy, of his property, at the time of filing his said petition, owned by him. The property which the said George Johnson omitted to
2 return in his schedule as aforesaid, and which your petitioners are informed and believe was at the time of his filing his said petition in bankruptcy the property of said George Johnson, and liable to be taken in payment of his debts, is the following-described lot and improvements, situated and located in the city of Atlanta, Georgia, to wit: Part of lot No. one hundred and sixty-eight, (No. 168,) bounded on the south by Green street, (now West Hunter street,) two hundred feet; on the east by a street along the old Monroe railroad right-of-way one hundred and ninety-five feet; thence west parallel to south line two hundred and forty-six feet, and along the south side of the Mineral Spring lot; thence south at right-angles to Greene or Hunter street, containing one acre, more or less, upon which lot is erected a commodious and comfortable dwelling-house, containing five or six rooms, and other convenient out-houses, stables, garden, and well of water, which lot of land, with its improvements, is of great value, to wit, of the value of three thousand dollars or other large sum.

Your petitioners further show that, on the 9th day of July, in the year of our Lord 1863, one Thomas S. Powell conveyed said lot of land to one Frederick Flyn, then and now a citizen of and residing within the said State of Georgia and the northern district thereof, as trustee for Mrs. (Margaret) Johnson, then and now the wife of said
3 George Johnson, bankrupt as aforesaid, the consideration for said conveyance, as expressed in said deed of conveyance, was the sum of four thousand dollars, a copy of said deed is hereto annexed and marked Exhibit A, which your petitioners pray may be taken as part of this their bill, with leave of reference thereto as often as may be necessary. The purchase of said lot of land from said Thomas S. Powell, as your petitioners fully believe, by said George Johnson himself, and the said consideration of four thousand dollars for the same was paid by said George Johnson himself, and out of his own funds; and the said George Johnson, at the time he bought said lot of land and paid for it, was greatly embarrassed in money matters, if not totally insolvent, he having at that time, as your petitioners have good reasons to believe, no real estate nor personal property more than was then by

the laws of Georgia exempt from levy and sale, in favor of the heads of families; and at the same time was largely indebted, to wit, in the sum of three thousand dollars or other large sum, upon which debts judgments in the courts of the State of Georgia had before that time been rendered and were then unpaid and in full force.

Your petitioners further show that said George Johnson was not only greatly embarrassed in his pecuniary condition at the time of the purchase of said lot as aforesaid, and continued so to be, but also since that time, to wit, in the year 1865, 1866, & 1867, engaged in
4 various speculations, trades, and undertakings, and thereby became deeper and deeper involved in debt until the time of filing his said petition in bankruptcy, when he was whol'y insolvent, his whole assets as returned by him in his schedule not being enough to pay more than about per cent. of his indebtedness.

Your petitioners further show that, at the time of the purchase of said lot of land, there were no valuable improvements on it, but that since, to wit, in the year of our Lord 1867, the said George Johnson had erected on said lot the dwelling-house and other improvements aforesaid, which improvements are of great value, to wit, of the value of two thousand dollars or other large sum, which improvements your petitioners fully believe were paid for by said Johnson out of his own funds.

And your petitioners therefore aver that, to the best of their knowledge, information, and belief, the said George Johnson bought said lot of land and had the title to the same made to said Frederick Flyn, as trustee for the said Margarett Johnson, wife of said George Johnson, and afterwards made said improvements on the same, and omitted to return the same in the schedule of his property as aforesaid, all in fraud of his creditors; and of all which fraudulent acts and purposes the said trustee, Flyn, and the said Mrs. Martha Johnson were, at the date of said purchase of said lot, and at the time said improve-
5 ments were being made upon the same, had full notice and were consenting thereto.

Your petitioners further show, that said house and lot and other improvements are of the rental value of fifty dollars per month, or other large sum, and that said George Johnson and his family are in the possession and occupancy of the same, and have been for months; that said Johnson, being a bankrupt, and his family having no other property but that which is exempted and was set apart to them, under the provisions of said bankrupt law, neither said Johnson, nor his family, will be able to refund to your petitioners, as assignees as aforesaid, for the rent or use of said property, in the event the same shall be determined by the honorable court to be subject to be administered under said bankrupt law, for the benefit of George Johnson's creditors, and thereby irremedial injury would result to said estate by allowing said Johnson or his family longer to remain in possession of said property.

Your petitioners further show that most of the property returned by said George Johnson in his schedule annexed to said petition in bankruptcy, has been sold according to the requirements of said bankrupt act, and that it is evident beyond dispute that when all said property shall have been sold, and said George Johnson's estate fully administered, according to the provisions of said bankrupt act, there will still remain a large portion of the debts against said estate unpaid.

6 Your petitioners further show that said trustee, Flyn, and said Johnson and wife are offering said lot and improvements to rent, and your petitioners have reason to believe, unless restrained by

the honorable court, the said trustee, &c., will rent out or lease said property to some innocent lessee for one or more years, in that manner interfere with or hinder the rights of your petitioners, as assignees as aforesaid, in and to said property.

Inasmuch, therefore, as your petitioners are remediless in the premises, save in a court of equity where matters of this and the like nature are properly cognizable and relievable; to the end, therefore, that the honorable court may, by the United States writ of injunction, restrain said trustee, Flyn, and said George Johnson & wife from leasing, or selling, or otherwise encumbering said property; and that the honorable court may appoint a receiver to take possession and control of said property, and collect, and receive the rents and proffit issuing from the same, and keep and hold the same, subject to the further order of the honorable court, or, at least, to require said trustee, Flyn, and said George Johnson and wife, to give good bond and security for the forthcoming of the rents and proffits issuing from and out of said prop-
7 erty, from this time untill the final hearing and decree in this cause; and that the honorable court may declare said conveyance of said lot of land to said trustee, Flyn, for the use of said Mrs. Marg'rett Johnson, to be fraud'lent and void, as against your petitioners, assignees as aforesaid, and that said property be decreed to be sold, and the proceeds thereof administered by your petitioners, under the provisions of said bankrupt act; also, that, in the event the honorable court, upon the final hearing of this cause, should determine the said conveyance to said trustee, as aforesaid, was not fraud'lent and void against your petitioners, as assign's as aforesaid, that the said honorable court may, nevertheless, decree that said property be sold, and out of the proceeds of said sale, the value of the improvements as aforesaid erected on said lot may be taken and administered by your petitioners, as assignees as aforesaid, and administered under said bankrupt act; and that the honorable court may grant your petitioners in the premises, such other and further relief as may seem meet, and according to equity and good conscience: May it please the honorable court to grant unto your petitioners the writ of subpœna of the United States of America, to be directed to the said Frederick Flyn, George Johnson, and Mrs. Marg'rett Johnson, and the rest of the confederates, when discovered, thereby commanding them and every of them, at a certain day, and under
8 a certain pain therein to be specified, personally to be and appear before your honor, in this honorable court, then and there to stand to, abide, and perform such further orders and decree in the premises, as your honor shall deem meet, and agreeable to equity and good conscience. And your petitioner shall ever pray.

Your petitioners hereby wa've all discovery on the part of said defendants, or either of them.

ARNOLD & BROYLES
Solicitors for Complainants, the Assignees.

(Copy.)

EXHIBIT (A.)

GEORGIA, *Fulton County:*

This indenture, made this 9th day of July, 1863, between Thomas S. Powell, of the first part, and Frederick W. Flyn, trustee of Mrs. Marg'rett Johnson, of the second part, all of said county and State, witnesseth, that in consideration of the sum of four thousand dollars in

hand by said Marg'rett Johnson paid, at and before the sealing and delivery of this, and the receipt whereof is hereby acknowledged, said Powell has and does, by these presents, grant, bargain, sell, and convey to the said trustee and his successors in trust, for the sole
9 and separate use of said Marg'ret, and to be in no way liable for the debts or contracts of her present or any future husband, the following-described tract or parcel of land, lying in the city of Atlanta, Georgia, and known in the plan of said city as part of block one hundred and sixty-eight, (168,) and bounded as follows: On the south by an all'y two hundred feet; on the east by a street along the old Monroe R. R. right-of-way one hundred and ninety-five (195) feet; thence west parallel with the south line two hundred & forty-six (246) feet, and along the south side of the Mineral Spring lot; thence south at right angles to the all'y on the south line, and containing one acre, more or less. Said lot is a part of land, lot seventy-eight, (78,) in the fourteenth district of formerly Henry, now Fulton County; and the power & right is hereby granted to the said Mrs. Marg'rett Johnson to appoint & change the trustee or trustees for said conveyance property as often as she may think proper, and to do so by a mere written or oral notice, & without any order, or any decree, or other proceedings, in any court whatever; & the power is likewise hereby granted to said Mrs. Marg'rett Johnson to sell in fee-simple, or mortgage, or otherwise dispose of said property, or any part thereof to any person or persons
10 and to do so without any decree or order of any court whatever; & said trustee & his successors covenant with said Mrs. Margaret Johnson to execute the necessary titles for the disposal of said trust-property, or any part thereof, upon the written or oral request of said Margaret Johnson, & without any order or decree of any court:

To have and to hold said conveyed premises, with all its rights & appertanances, to him, the trustee, & his successors in office, for the sole and separate use of said Margaret Johnson, her heirs & assigns forever, in fee-simple; and I, the said T. S. Powell, the said bargained premises to the said trustee, his successors, & assigns, will and shall, by these presents, forever warrant and defend against the claims of all persons whatever.

In witness whereof the said T. S. Powell has hereunto set his hand & affixed his seal the day and year first above-written.

THO'S S. POWELL. [SEAL.]

Signed, sealed, & delivered in presence of—
D. F. HAMMOND.
W. M. BUTT, *J. P.*

[$1 rve. stamp. T. S. Powell. Sept. 10, 1866.]

11 *The separate answer of Frederick W. Flynn.*

In the district court of the United States for the northern district of Georgia.

JOHN T. GLEN & GEORGE W. ADAIR, ASSIGNEES of George Johnson,
vs.
FREDERICK W. FLYNN, MRS. MARGARET Johnson, & George Johnson.
} Bill for relief, &c.

This defendant, now, and at all times hereafter, reserving all manner of benefit & advantage to himself of exceptions to the many errors &

insufficiencies in said bill contained, for answer thereunto, or unto so much or such parts thereof as this defendant is advised is material for him to make answer unto, he answers & says: That this defendant is informed & believes that the defendant, George Johnson, made a full return of all his property, real & personal, in the schedule attached to his petition in bankruptcy; but of this he knows nothing of his own knowledge. This defendant says that the lot described in the complainant's bill was conveyed to him, as trustee for Mrs. Margarett Johnson, on the day & year & for the consideration set forth in said bill; & that he believes and is informed that the said consideration of four
12 thousand dollars was the savings of the defendant, Mrs. Margaret Johnson, from the proceeds of her individual labor and business carried on with the consent of he' husband; that he has held said property in trust for the said Mrs. Johnson since the day & year in said bill set forth on which the conveyance to him was made, and that the defendant, George Johnson, has never made any claim to said lot, or the proceeds thereof, but has always recognized it as the sole & separate property of his wife, the said Mrs. Margaret Johnson; that, at the time the said property was conveyed to this defendant, as trustee as aforesaid, the said defendant, George Johnson, was amply able to pay, at any moment, his debts; that, at the time aforesaid, there was no citizen in the community in which he lived whose credit was better than that of the said George Johnson, and this defendant then knew of property belonging to the said George Johnson, of the value of four thousand dollars or more, in gold, in addition to any other property which he may then have owned, of which this defendant was not acquainted; that the said George Johnson was neither embarrassed nor insolvent at the time of the conveyance to this defendant aforesaid: that this defendant is
13 informed & believes that, during the years 1865 & 1866, the property of the said Johnson was amply able to pay any of his debts, & during the first portion of the year 1867; and had the creditors of the said Johnson not interfered with him, this defendant is informed & believes that he would have paid off every dollar he owed in full, & that there would have been no necessity of his taking advantage of the bankrupt act. This defendant is not informed as to what the assets of the said George Johnson, in the bankrupt court will pay; that, at the time of the purchase of the property so conveyed to this defendant, as trustee as aforesaid, this defendant, most emphatically denies that there were *were* no valuable improvements on the same, but, on the contrary, alleges that the said lot then had on it a large & commodi'us building containing five rooms or more, the exact number this defendant is unable to state; that this defendant admits that, during the year 1867, a commodious dwelling-house & other improvements of the value of about fifteen hundred dollars were erected on the said lot, but is informed, & believes the truth to be that all of said improvements were paid for out of the hard-earned savings of Mrs. Margaret Johnson, & this defendant
14 denies most emphatically that the defendant, George Johnson, paid for the erection of the same from his own money; that this defendant denies most positively that the said George Johnson bought the said lot of land, & had the title conveyed to this defendant, and afterwards made improvements on the same, & omitted to return the same on the schedule of his property attached to his petition in bankruptcy in fraud of his creditors; and this defendant denies further, that either he or Mrs. Margaret Johnson had notice of any such fraud'lent conduct & consented thereto; that this defendant does not believe that the value of the said premises of rent is more than thirty dollars per

month; that said defendants, George Johnson and Margaret Johnson, to the best of this defendant's knowledge & belief, have occupied the said premises since the month of October, 1867, and have a portion of the time rented out one half of the said premises at and for the monthly rent of fifteen dollars; that this defendant knows of no property that the said George Johnson at present owns, besides that set apart to him by the assignees in bankruptcy, he having turned over all the rest of his once valuable estate to the complainants, the said assignees; that this defendant believes that, after the distribution of the proceeds of the sale of the property turned over to the said complainants, assign-
15 ees in bankruptcy, by the said *said* defenda't, Johnson, that there will be still a large amount due and owing by the said Johnson; but that this defendant answers that this condition of affairs arose from the ruinous sacrifice at which the said property was sold, on account of the disorganized condition of society in the region of country in which said property was located at the time of the said sale; that this defendant, most emphatically, denies that either he or the other defendants are endeavoring to sell or rent said property; that one half of the same, with the consent of this defendant, has been rented for some months past, but beyond this, no effort has been made either to sell, lease, or rent; and this defendant denies all unlawful combinations in said bill charged. All which matters and things this defendant is ready to aver and prove, as the court shall direct, & prays to be hence dismissed with his reasonable costs & charges in this behalf most wrongfully sustained.

LUCIUS J. GARTRELL,
Def'ts Sol'r.

You, Frederick W. Flynn, do solemnly swear that what is contained in your answer, as far as concerns your own act & deed, is true, of your own knowledge, and that which relates to the act or deed of any other persons, you believe to be true.

FREDERICK W. FLYNN.

Sworn to & subscribed before me this 27th Feb'y, 1869.
W. B. SMITH, *Clerk.*

16 *The separate answer of Mrs. Margaret Johnson.*

In the district court of the United States for northern district of Georgia.

JOHN T. GLEN & GEORGE W. ADAIR, ASSIGNEES of George Johnson,
vs.
FREDERICK W. FLYNN, MRS. MARGARET JOHNSON, & George Johnson. } Bill for relief, &c.

This defendant, now and at all times hereafter reserving all manner of benefit and advantage to herself of exceptions to the many errors & insufficiencies in said bill contained, for answer thereunto or unto so much or such parts thereof as this defendant is advised is material for her to make answer unto, she answers & says that this defendant is informed & believes that her husband, the defendant, George Johnson, did make a full return of all his property in the schedule annexed to his petition in bankruptcy; that the lot described as having been omitted from said schedule & convey' to the said defendant, Frederick W. Flynn, in trust for this defendant, never was the property of the said defendant, George Johnson, either in law or equity; that this defend-

ant admits the said lot to have been conveyed to the said Flynn,
17 as trustee, on the day & year charged in said bill, but most emphatically denies that the purchase-money for said property was paid from funds belonging to the said George Johnson, but, on the contrary, distinctly avers that the consideration expressed in the said deed of conveyance was paid from the individual earnings of this defendant, and not one dollar belonged to her said husband; that her said husband, from the date of their marriage to the present day, has allowed her to appropriate to her own use the proceeds of her labor, & the said lot of land was purchased from the sweat of this defendant's brow; this defendant denies that, at the date of the said conveyance to Flynn, *that* her said husband was either in embarrassed or insolvent circumstances, but, on the contrary, alleges that the credit of the said George Johnson, in the community in which he lived, was excellent; that he had property to the value of six thousand dollars in gold at that time, while his debts, to the best of this defendant's knowledge, information & belief, did not exceed the sum of one thousand dollars; that this defendant does not believe that there were, at the date of the conveyance aforesaid, any judgments in the courts of the State of Georgia unpaid, but says, if there were, had the said George Johnson been asked for payment of the same by the plaintiffs or their attorneys, he would & could have
18 paid them off at once; that the said defendant Johnson did not become deeper & deeper involved in debt 1865 & 1866, but, on the the contrary, alleges that, up to the fall of 1867, his property would *would*, at any time, have paid off his debts in full, & left a handsome surplus to him; but that, during the latter portion of the year last aforesaid, on account of the disorganized condition of the country, his property depreciated so in value as to render it impossible, at that time, to have paid his debts in full, but had his creditors extended a little indulgence towards him, until matters became more settled, he would still have been more than able to pay out in full. This defendant has no information as to what percentage on the dollar the assets, in the hands of complainants, as assignees, will pay on the indebtedness of her said husband. This defendant admits that, during the year 1867, there was erected on the said lot a dwelling-house & improvements of the value of about fifteen hundred dollars, but denies most positively that the funds for the building of said improvements were furnished by the said George Johnson, and, on the contrary, alleges that all of said improvements were paid for out of the individual & separate funds of this defendant, the money expended for the same being the proceeds of her own labor; that the defenda't denies that her said husband had
19 the title to the said lot conveyed to the said Flynn in fraud of his creditors, & had the improvements put on with the same object in view, & that this defendant & the said Flynn had notice of all of the said fraud'lent acts; but, on the contrary, alleges that said conveyance was made to Flynn in trust for this defendant in accordance with the terms of a bona-fide sale of the said property to this defendant, for the consideration of four thousand dollars, which was paid from the accumulations of this defendant's labor, which she retained as her separate property by the free will & consent of her said husband; that the said improvements were paid for entirely by the proceeds of this defendant's labor. This defendant answers that she & her said husband have been occupying the said premises since the month of October, 1867, until some few months since, when, with the consent of her said trustee, she rented one-half of the said house & lot to certain parties at & for the sum of fifteen dollars per month; that this defendant has no

other property beyond the lot aforesaid, & that her said husband has not, beyond that set apart to him by the complainants, as his assignees, & exempted under the bankrupt act of 1867; that this defendant is informed & believes that the assets of the said George Johnson in the hands of complainants, by reason of the ruinous sacrifice at which they were sold on account of the unsettled condition of the country in which they were located, upon distribution, did not satisfy
20 the debts of the said George Johnson in full, but this defendant denies most positively that either she, or any one of the said defendants have attempted to sell or are contemplating a sale of said lot, or have rented the same or are contemplating renting the same beyond what is set forth in this answer; that the lot of land, independent of the improvements thereon, is not worth more than twelve hundred dollars; and this defendant denies all unlawful combinations in said bill charged. All which matters & things this defendant is ready to aver & prove, as the court shall direct; & prays to be hence dismissed with her reasonable costs & charges in this behalf most wrongfully sustained.

LUCIUS J. GARTRELL,
Def't's Sol'r.

You, Margaret Johnson, do solemnly swear that what is contained in your answer, as far as concerns your own act & deed, is true, of your own knowledge, & that which relates to the act or deed of any other persons, you believe to be true.

MRS. G. JOHNSON.

Sworn to & subscribed before me this 27th Feb'y, 1867.
W. B. SMITH, *Clerk.*

21 *The separate answer of the defenda't George Johnson.*

In the district court of the United States for the northern district of Georgia.

JOHN T. GLEN & GEORGE W. ADAIR, assignees of Georg' Johnson,
vs.
FREDERICK W. FLYNN, MRS. MARGARET Johnson, & George Johnson.
} Bill for relief, &c.

This defendant, now & at all times hereafter reserving all manner of benefit & advantage to himself of exceptions to the many errors & insufficiencies in said bill contained, for answer thereunto, or unto so much or such parts thereof as this defenda't is advised is material for *her* to make answer unto, she answers & says, that he denies most emphatically that he failed & refused to make a full & complete return in his schedule annexed to his petition in bankruptcy, of all the property then owned by him; that the lot charged in the said bill to have belonged to this defendant, & to have been omitted by him from his said schedules, was not purchased, as charged, with the money of this defenda't, & the title conveyed to the defendant, Frederick Flynn, in trust for the wife of this defendant, in fraud of this defendant's creditors, but, on the contrary, this defendant alleges & is prepared to prove that the
22 entire, purchase-money, for said property, amounting to the sum of four thousand dollars, was paid from the proceeds of the individual labor of the said Margaret Johnson, which she had accumulated

with the consent of this defendant; that, at the time of the conveyance aforesaid, this defendant did not owe altogether, more than one thousand dollars, while he owned property to the value of over six thousand dollars, in gold; that he was then ready & able to pay his indebtedness, small as it was, but the armies of the Confederate and United States, respectively, had cut off all communication with his said creditors, & prevented his so doing; that this defendant does not believe that there were any judgments against him in the courts of this State at the time of the conveyance aforesaid, & that if they were, they were for a small sum which this defendant would & could have paid at any time had it been demanded of him; that this defendant was not in an embarrassed condition, in the years of 1865 & 1866, nor until the latter portion of 1867, & that at any time, previous to the fall of 1867, the property of defendant would have been more than sufficient to have settled all liabilities which he had incurred; that the defendant is not informed as to what is the exact per centum which his assets did pay in the bankrupt court, but had it not been for the disorganized state of the country at the time of the sale of said property returned in his schedule
23 attached to his petition in bankruptcy, the proceeds of said sale would have settled his entire indebtedness, & left him a handsom' surplus. This defendant denies the charge that, at the time of the conveyance aforesaid, *that* there were no valuable improvements on the said lot, but, on the contrary, avers that there was a large & commodious house, containing five rooms thereon, which the said Frederick Flynn, as trustee, & Mrs. Margaret Johnson rented out; that this defendant admits that, during the year 1867, there were improvements erected on the said lot, of the value of about fifteen hundred dollars, but denies most positively that said buildings were erected with the funds of this defendant, &, on the contrary, alleges that said improvements were paid for out of the proceeds of the individual labor of his said wife, Mrs. Margaret Johnson, which she had accumulated, with the consent of this defendant, during hard years of toil. This defendant denies most emphatically that the purchase of said lot was made by him, & the conveyance executed as aforesaid, & the said improvements erected thereon in fraud of the rights of his creditors, & that the defendants, Margaret Johnson & Frederick Flynn had notice of said fraud, but, on the contrary, avers, & is prepared to prove that the purchase was a bona-fide one, made by Mrs. Johnson out of her separate funds, with the consent of this defendant, when he was in ample circumstances, & that the said improvements were placed on the said proprty & paid
24 for by the said defendant, Mrs. Johnson, with the approval of this defendant, at a time when his property was ample to have paid all his debts; that this defendant denies that said premises are of the rental value of fifty dollars per month, &, on the contrary, alleges that they would not rent for more than thirty dollars per month; that this defendant & his said wife have been occupying the premises the month of October, 1867, & have a portion of the time rented out one-half of said property at & for the rent of fifteen dollars per month; that this defendant admits that, after the distribution of the assets in the hands of the complainants as assignees, there will still be a portion of his debts unpaid, but says this unfortunate fact is due to the ruinous sacrifice at which his property was sold; that this defendant denies most positively that either he or the defendants, Margaret Johnson & Frederick Flynn, are endeavoring to sell the said property, or to rent the same beyond the one-half, which is now rented for the sum of fifteen dollars per month, as herein set forth; that the said lot independent of

the improvements, is of the value of about twelve hundred dollars; that this defendant denies all combination in the said bill charged. All which matters & things this defendant is ready to aver & prove, as this court shall direct; and prays to be hence dismissed with his reas-
25 onable costs & charges in this behalf most wrongfully sustained.

LUCIUS J. GARTRELL, *Deft's Sol'r.*

You, George Johnson, do solemnly swear that what is contained in your answer, as far as concerns your own act & deed, is true, of your own knowledge, & that which relates to the act or deed of any other person, you believe to be true.

GEO. JOHNSON.

Sworn to & subscribed before me this 27th Feb'y, 1869.

W. B. SMITH, *Clerk.*

Replication.

In district court of the United States for norther' district of Georgia.

J. T. GLEN & G. W. ADAIR, AS ASSIGNEES OF George Johnson, bankrupt, *vs.* F. W. FLYNN, TRUSTEE OF MARGARET JOHNson, Margaret Johnson, & George Johnson. } Bill for relief, &c.

And now comes the plaintiffs & reply to the defendants' answers & say that the matters & things set forth in complainants' bill & true in fact & sufficient in law to entitle complaint's, to the relief prayed, & this complainant will prove, as the court may direct, & that the an-
26 swers of defendants to said bill are not true, nor sufficient in law to bar complain'ts relief; & complainants pray judgment of the court in the premises.

ARNOLD & BROYLES,
Sol's for Compl'ts.

Decree dismissing bill, &c.

In district court of the United States for the northern district of Georgia.

J. T. GLEN & G. W. ADAIR, AS ASSIGNEES OF George Johnson bankrupt, *vs.* F. W. FLYNN, AS TRUSTEE OF MARGARET JOHNson, George Johnson & Margar't Johnson. } Bill to subject property to payment of bankrupt's debts, &c.

This cause came on to be heard at this term & was argued by counsel; & thereupon, upon consideration thereof, it was ordered, adjudged, and decreed as follows, viz: That the bill be dismissed, & that defendants pay the costs in the cause.

September term, 1871, on 12th day of October, 1871.

JOHN ERSKINS, *Judge.*

27 *Order for an appeal.*

In district court of the United States for the northern district of Georgia.

JOHN T. GLEN & GEORGE W. ADAIR, AS assignees of George Johnson, bankrupt,
vs.
GEORGE JOHNSON, F. W. FLYNN, AS TRUSTEE for Margaret Johnson, & Margaret Johnson.
} Bill for relief, &c.

In which case at present term of the court a decree was rendered dismissing the bill at costs of the defendants therein.

Complainants being dissatisfied with the decree rendered in said cause, come by their solicitors, Arnold & Broyles, &, in open court, & during the same term at which said decree was rendered, pray an appeal in said cause from the said decree to the Supreme Court of the United States; which prayer is hereby allowed & the appeal granted as prayed for in open court, October 16th, 1871.

Oct. 16, 1871. In open court.

JOHN ERSKINS, *Judge.*

Testimony.

In the district court of the United States for the northern district of Georgia.

JOHN T. GLEN & GEORGE W ADAIR, AS signee, &c.,
vs.
28 FREDERICK W. FLYNN, MRS. MARGARET Johnson, & George Johnson.
} In equity. Bill for relief, &c.

Original interrogatories to be propounded to J. W. Barney, who is a material witness for the defendants, & who resides in the county of Gordon, in said State of Georgia:

Interrogatory 1st. Do you know the parties to the above-stated cause? How long have you known the defendants?

Interrogatory 2d. In what year did you first become acquainted with George Johnson & Mrs. Margaret Johnson? What business was George Johnson then following? What business was Mrs. Margaret Johnson then engaged in?

Interrogatory 3d. Did Mrs. Margaret Johnson have any separate means of her own? If yea, in what did said means consist? Did Mrs. Margaret Johnson have any separate business of her own? If yea, in what did said business consist? Where was the defendant George Johnson living, on the 9th day of July, 1868? What business was he engaged in at that time? Was he in a solvent condition at that time?

Interrogatory 4th. What business was Mrs. Margaret Johnson then engaged in? In what manner did she earn her money by her own labor? What means did Mrs. Margaret Johnson have when she married George Johnson? What was George Johnson's pecuniary condition, on the 9th of July, 1863? What was Mrs. Margaret Johnson's pecuniary
29 condition on that day?

Interrogatory 5th. State all facts & circumstances within your knowledge, tending to show that Mrs. Margaret Johnson, by her own

labor, & with her husband's consent, acquired means of her own, prior to the 9th day of July, 1863, & since?

GARTRELL & JACKSON,
Def't's Sol's.

We except to the first three questions in the 4th direct int'y, as leading, and to the 5th int'y as not being such as is required by the 71 rule of equity practice in U. S. courts. Sept. 7th, 1869.

ARNOLD & BROYLES,
Sol's for Compl't's.

Cross-interrogatories.

1st x-int'y. When were George & Margaret Johnson married? If she had any separate means when she was married, state what use she & her husband, or either, first made of it. Did she, or either of them ever invest said means in anything? If yea, when & in what, & how many times did they invest? Give the history of the investment of such means, if any there was.

2d x-int'y. If you say Mrs. Johnson ever followed any separate business, state how long did she do so. How often, when, & what business did she follow, & where was George Johnson during such time & what
30 was he doing? Was George Johnson, during such time, living in the same house with his wife? Was he doing business in the same house his wife was carrying on her business? Did not George assist his wife—make contracts for her, collect money arising out of the business, &c. Has Mrs. J. usually been a vigorous, healthy woman, or frail & sickly? Who *are* present at the taking of your answers.

ARNOLD & BROYLES,
Sol's for Compl't's.

In the district court of the United States for the northern district of Georgia. In equity.

JOHN T. GLEN & GEORGE W. ADAIR, assignes, &c.,
vs.
FREDERICK W. FLYNN, MRS. MARGARET JOHNson, & George Johnson. } Bill for relief, &c.

By virtue of the commission to us directed from the honorable United States court, northern of Georgia, of Fulton County, Atlanta, Georgia, we have caused J. W. Barnly, the witness in said commission named, to come before us, &, being duly sworn true answers to make to certain interrogatories to said commission attached, deposeth & answereth as follows, to wit:

To the first direct-interrogatories *the* answer:

31 1st. I do. I have known them from the winter of 1867.

2. January, 1867, George Johnson was keeping a bar in the basement of the post-office building, owned by Johnson & Bell. Margaret Johnson gave her attention to the resta'raunt & cooking department, & had several boarders.

3. I do not as to her means, more than what she told me herself. She has frequently told me she had considerable means in gold when she married Johnson in Philadelphia, the amount I do not recollect. I do not as to her separate business, only she gave her attention to the res-

ta'raunt & cooking department. I do not know where he was living at that time & was not acquainted with the family at the time referred to.

4. I was not acquainted with Mrs. Johnson in 1863, & do not know how she acquired her means. I do not know only what I heard her say. I do not know what George Johnson's pecuniary condition was in 1863. I do not know what Mrs. Margaret Johnson's pecuniary condition was in 1863.

5. I do not know *no*thing more from my personal knowledge than I have above stated.

Answers to the cross-interrogatories:

X 1. First, I do not know. I do not know only what I heard her say, she had considerable means when she was married; as to the
32 amount I do not recollect; as to the investment I do not know anything of my own knowledge, only I heard Mrs. Margaret Johnson say that she gave a portion of her money to Mr. Johnson & he invested it in a hotel & stables in the city of Augusta, and the whole was burned up, without any insurance; they then moved to Atlanta & invested in property on Decater street, & which was also burned down, without any insurance. They then engaged in business in the basement of the building built by Johnson & Bell, corner of Alabama & Broad streets. George Johnson had a bar in one room & there was a resta'raunt & cooking department in two other rooms, over which Mrs. Margaret Johnson gave her personal attention. This was in the early part of 1867.

2. I do not know as to the separate business, nor how long, nor how often. They did business in the same house, & *was* living together in the same house, up-stairs. I know nothing as to their assisting each other in collecting money or making contracts. I have frequently heard Mrs. Margaret Johnson complain of being in bad health. Notwithstanding her complaints I have frequently known her to be out & *gave* her attention to business when the weather was bad, when, in my judgment, no lady when in bad health should have been out of her private
33 room. No one present at the taking of these interrogatories, only the commissioners & myself.

JOHN W. BARNLY.

Answered and subscribed and sworn to before us this Sept. 16th, 1869.

J. H. BARNETT, *Com'r.*
J. A. FITE, *Com'r.*
J. N. BUCKNER, *Com'r.*

In the United States district court for the northern district of Georgia.

JOHN T. GLEN & GEORGE W. ADAIR, assignees of George Johnson, bankrupt,
vs.
FREDERICK W. FLYNN & MRS. MARGARET Johnson & George Johnson.
} Bill for relief, &c.

Interrogatories to be exhibited to Frederick W. Flynn, one of the defenda'ts, who is a material witness, & who resides in the city of Atlanta.

Int'y 1st. If you had any conversation at any time with John Gavan touching the matters *the matters* involved in this case, or any of

34 them, please to state when and where it was, & what he said. Give the whole conversation as well as recollected.

L. J. GARTRELL,
L. E. BLECKLEY,
Sol's for Def'ts.

Service acknowledged. Let commission issue on application.
May 22, 1871.

E. N. BROYLES,
Of Counsel for Pl'ff.

STATE OF GEORGIA, *Fulton County:*

By virtue of a commission to us directed from the honorable district court of the United States for the northern district of Georgia, & having taken the oath prescribed by law, we have caused Frederick W. Flyn, the person named in said commission, to come before us, &, after being duly sworn true answers to make to the interrogatories to the said commission annexed, he answers as follows:

To the 1st direct interrogatory he answers: He had a conversation with John Gavan, on the 28th of April, 1871, on Houstan street, in the city of Atlanta, touching the matters involved in this case. He
35 (Gavan) stated he would not have commenced the suit originally had he not been assured by Jack Wallace & others that they would hold him harmless of all costs in the cause; and also, had it not been for some little spite he had towards Johnson and his family, growing out of some transactions he had previously had with them: that they, Jack Wallace & others feared that he & Johnson, being of the same nationality, would get together & settle their matters and leave the others "out in the cold." He expressed a desire to settle, if he could get some compensation for his claim. This was about the substance of the conversation. The witness answers from written memoranda, which is hereto attached. He recollects the facts distinctly, independent of the memoranda.

F. W. FLYNN.

Sworn to & subscribed before us this 22d May, 1871.

H. P. HITCHCOCK, [L. S.]
W. A. LIGNER, [L. S.]
Commissioners.

ATLANTA, *May the 1st*, 1871.

Memorandum of a conversation had in the city of Atlanta, on the 28th of April, inst., in relation to the business of Mr. & Mrs. George Johnson, had by F. W. Flynn, & J. H. Gavan:

36 Mr. Gavan held that the suit was pressed by him at the instance of Col. Jack Wallace & others; the' to bear all expenses, & he, Gavan, pressing *ita rong* for ill will, spite, or some such feeling. This conversation was held at the instance of Mr. Gavan, on the 28th day of April, on Houston st., in the city of Atlanta. Mr. Gavan further held that his supporte's feared that, owing to the same nationality of said Gavon & Johnson, that they might merge their difficulties & leave has abbet'ors out in the cold.

37 UNITED STATES OF AMERICA,
Northern District of Georgia:

JOHN T. GLENN & GEORGE W. ADAIR, assignees of George Johnson, bankrupt,
vs.
FREDERICK W. FLYN, TRUSTEE FOR MRS. Margaret Johnson, Margaret Johnson, & George Johnson.

Bill for relief, pending in the district court of the United for the northern district of Georgia.

Interrogatories to be propounded to John Janin, E. W. Holland, W'm O. Halorin, J. E. Williams, Petter Lynch, John Bridewell, Martin Dailey, Charles Powell, William Knowles, Pink Sanders, Frank Rice, Benj'min Therman, B. J. Pool:

Int'y 1st. Do you know either or all of the parties to the case above stated? If not all of them, which of, and how long have you known them?

Int'y 2nd. Are you or not acquainted with a certain city lot, and improvements ther'in, in the city of Atlanta, Geo., near the mineral spring, whereon defendant George Johnson resides, known as part of lot
38 number one hundred and sixty-eight, (No. 168,) containing one acre, more or less? If yea, pleas' give a discription of the improvements, and also state the value of the lot, and the value of the improvements, separately. State also, what it cost or was worth to erect said improvements and furnish the material therefor, at the time said improvements were erected or put on said lot; also state the time or times said improvements wer' put on said lot; *on said lot;* also state, if you know, who had said improvements put on said lot; who acted in making the contract or contracts for having said improvements made or put up; who paid the workman or hands for the work in putting up said improvements, if any person; who bought the materials for making said improvements, if any person; who paid for said materials. State whether or not any or all the improvements on said lot have been put on said lot before or since the 9th day of July, in the year 1863.

Int'y 3rd. Please state what was the pecuniary condition of de-
39 fendant George Johnson, in July, 1863. Was he solvent or insolvent? Was he or not, indebted at that time to any extent? If yea, to what amount? Had not said Johnson at that time any property in his own name or in the name of his wife? If yea, describe it and its value.

Int'y 4th. Please state whether or not, previous to the 9th day of July, in the year 1863, the defendant Margaret Johnson owned or possessed any seperate property of her own. If yea, state how much she had, and what it consisted in; also, when she obtained it, from whom she obtained, and how and with what means she obtained it.

Int'y 5th. Please state whether or not, previous to the 9th day of July, 1863, def't fol'owed or car'ied on any trade or business in her own name and distinct from her husband, defendant George Johnson. If yea, please state what business or trade she carried on; when did she carry it on, and how long; also, whether or not said business was car-
40 ried on in the house or building in which defendant George Johnson and his family then lived; also, whether or not her husband knew of the business she was car'ying on; also, whether or not he was ever in the house where said business was being conducted; and if so, how often, and, also, whether or not he did or not assist her in said business; and if so, how much was he in the habit of assisting her, if at all; also, whether or not, during the time said defendant Margaret

Johnson was conducting such business, if at all, her said husband followed or was engaged in any other business than that of his wife. If you know anything else going to show the true pecuniary condition of defendant Mrs. Margaret Johnson, as distinct from her husband at and before 9th day of July, in the year 1863, please state it fully and truly.

Int'y 6th. Do you, or either of you, know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this case, or either of them, or that may be mate-
41 rial to the subject of this your examination, or the matters in question in this case. If yea, set forth the same fully and at large in your answer.

ARNOLD & BROYLES,
Sol's for Compl'ts.

Cross-inter'ogatories.

1st. If you state the value of the improvements placed on the lot described in the 2nd inter'ogatory, please state the facts upon which you bace your opinion; give the items of improvements placed on said lot.

2. Is the defendant George Johnson indebted to any of you? Was he indebted to any one of you at the time he filed his petition in bankruptcy?

2ed. Where were you living on the 9th day of July, 1863? In what manner did you become acquainted the pecuniary condition of the defendants, George Johnson & Margaret Johnson? What were your opportunities for knowing the're pecuniary condition? State the fact that you may express in ref*f*erence to the're pecuniary condition.
42 3ed. Give manutely and particularly all the facts connected with the business carried on by George Johnson or Mrs. Margaret Johnson pryor to July 9th, 1863—what business was *was* George Johnson engaged in at that time; in what business was Mrs. Margaret Johnson then engaged; how much money did Margaret Johnson have of her own; was not George Johnson at that time a prosperous man, well to do in the world.

4th. State anything further that you may know tending to show pecuniary condition of George Johnson and Margaret Johnson, on July 9th, 1863. How do you know who payed for the improvements placed on said lot? How do you know who settled with the workmen? How do you know who paid for the materials placed on said property?

GARTRELL & JACKSON,
Sol's for D'f'ts.

JOHN GAVIN, aged 34 years, being duly sworn, deposes and says:

43 1st int. I know all the parties to the above cause. I have known John T. Glenn, G. W. Adair, George Johnson, and Mrs. Margaret Johnson, twelve or fourteen years, and Frederick W. Flyn six or seven years.

2 int. I am acquainted with the city lot and improvements whereon George Johnson now resides, near the mineral springs. The improvements consist in a house, one and a half story high, with brick bacement, portico in front, a platform on one side for dancing on, all enclosed by a high fence, made of railings and rock. The rock wall extends about one-half around the lot, averaging about 2½ or 3 feet in height. The lot; seperate from the improvements, would bring two thousand dollars, probably twenty-five hundred dollars. The improvements are worth about thirty-five hundred dollars. I do not know what it cost;

to put up said improvements, but think it would *of* been worth at that time, and furnish the material, about four thousand dollars. The said improvements were commenced in 1866, and finished in 1867.

44 George Johnson had the improvements put on the said lot. I don't know, of my own knolledge, who made the contract for put'ing up the improvements. I don't know who paid the workmen and hands for putting up the improvements. I don't know who bought the material. I don't know who paid for said material. All of the improvements on said lot have been put on sence July 9th, 1863. I considered George Johnson, in July, 1863, a poor man, and not solvent. I do not know the extent of his indebtedness at that time. I do not think that he had any property then. If he had property, either in his own or his wif's name, I don't know it.

4 int. I did not know of the defendant Margaret Johnson owning or possessing any property in her own name previous to July 9th, 1863. I cannot answer inter'ogatory 4 any further.

45 5th int. The defendant Margaret Johnson did not carry on any buisiness or trade in her own name previous to July 9th, 1863, distinct from her husband. Witness knows nothing further in answer to interrogatory fifth.

6 int. I know nothing further which may be of benefit or atvantage to any of the parties in this suit or material to the cause.

Cross-interrogatories:

1st int. I bace my opinion of the value of improvements on said lot on my kno'lledge of the costs of material, labor, &c. The improvements placed on said lot are a house, one and a half story high, with brick bacement, dancing hall, all enclosed with a fence composed of rock and pailings; the yard, laied off and planted with shade trees. There are, also, some out-houses, stables, cow-house, and other necessary houses. George Johnson is endebted to me; he was endebted to me at the time he filed his petition in bankruptcy.

46 2nd int. I was living at Atlanta and East Tennessee, during the year 1863, a portion of the time in Atlanta, and the balance in Tennessee. I was living in Atlanta in July, 1863. I know nothing of Margaret Johnson's pecuniary condition. I became acquainted with George Johnsou's pecuniary condition by having business transactions with him. My opportunities for becoming acquainted with George Johnson's pecuniary condition were very good, for the reason that I have just stated, to wit, having various buisiness transactions with him. I had some transactions with George Johnson, and always found it di'ficult to get money out of him, and always considered him pecuniarily embar'assed.

3rd int. I never knew anything about Mrs. Margaret Johnson having any buisiness pryor to July 9th, 1863; to the contrary, I know that she did not have any seperate buisiness from that of her husband. The

47 first I knew of George Johnson, he was exhibiting a shaved horse here in town; then he kept a little grocery on the lower part of Alabama street; then he was making soda water; the next time that I knew him he was interested in what was known at that time as the Planters' Hotel; then he resided on Whitehall; got there in 1863; was keeping a bar-room and eating-house. I have told the buisiness George Johnson was engaged in at that time. Mrs. Margaret Johnson had no buisiness seperate from her husband. I do not know how much money

Margaret Johnson had at that time. I never considered George Johnson a prosperous man, or a one well to do in the world.

4th int. I know nothing further tending to show the pecuniary condition of George Johnson or his wife in July, 1863. I do not know who paid for the improvements placed upon said lot, nor who paid the workman, nor who paid for the materials.

JOHN GAVIN.

Sworn*ed* to and subscribed before us at Atlanta, Geo., Sep. 2, 1869.
THO'S P. WESTMORELAND, *Com.* [L. S.]
W. P. REED, *Com.* [L. S.]

48 E. W. HOLLAND, aged sixty-two years, being duly sworn deposes and answers as fol'ows, to wit:

I know all the parties except Frederick W. Flyn and Margaret Johnson; have known Adair about twenty-five years, and Glem and Johnson over ten years.

2 int. I know the lot west of the mineral spring, in Atlanta, on which def't George Johnson resides. The lot is enclosed on two sides by a rock wall from three to seven feet in height*h*, with a fense on top, and has on it a dwelling-house of wood, with a brick bacement; the yard is laid of' with shade trees, &c. The lot is probably worth about twelve hundred dollars, and the improvements thereon as much more. I am not posted as to the value of property in that vacinity. I do not know w'at it cost to erect the improvements on said lot; but sup'ose, at the time it was done, it was worth about twelve or fifteen hundred dollars, with materials furnished. The improvements were made in 1867
49 & 1868, ac'ording to the best of my recol'ection. I know that George Johnson had some of the improvements made, and I think he had them all put on said lot. George Johnson acted in making the contract for the rock used in the wall. I know nothing about the other contract. George Johnson paid the workmen for putting up the rock work. I don't know who paid for the other improvements. George Johnson bought some of the rock from me, and paid for it all, except five dollars. All the improvements I know anything about have been put on the lot since 9th day of July, 1863.

3 int. In July, 1863, I think George Johnson was regarded as having money. He had some credit in the city, and was considered solvent; do not know the amount of his indebtedness at that time. In July, 1863, I think what property George Johnson had was held in his own name; do not know what property he held besides a bar and fixtures,
50 and eating-house, furniture, *and* &c.

4th int. Do not know whether or not Margaret Johnson possessed any property of her own previous to July, 1863. Witness cannot answer the questions further in inter'ogatory fourth.

5th int. Do not know whether or not Margaret Johnson car'ied on any business in her own name previous to July, 1863. Witness cannot answer the questions further in inter'ogatory fifth.

6th int. I know of nothing further that will benefit either party, or what is material to the cause, except that I never heard of Margaret Johnson being engaged in any business. I think I should *of* heard of it if she had been.

Cross-inter'ogatories:

1 int. In estimating the value of improvements mentioned in second interrogatory, I base my opinions upon the value of sim-

51 ilar property in the city, and my kno'lledge of building. There is a rock fense on the lot, with a wooden one on top, and a wooden house with a brick bacement. The ground is graded and layed off, ornamented with shade trees, and sown with grass and clover. Defendant George Johnson is endebted to me five dollars, balance due on the rock used in his fence. He was not endebted to me when he filed his petition in bankruptcy.

2nd. int. I was living in Atlanta in July, 1863; became acquainted with George Johnson's pecuniary condition at that time—in my capacity as a bank officer. George Johnson's paper was offered to be discounted at the bank. We sometimes discounted his paper and sometimes did not. I never knew Margaret Johnson, nor her pecuniary condition.

My oppertunities for knowing the pecuniary condition of Geor.
52 Johnson arose from my co'rse of buisiness as a bank officer, and from buisiness transactions with him. I have stated above the facts upon which my opinion is based.

3rd int'y. I know nothing of Margaret Johnson previous to July 9th, 1863. George Johnson was engaged in buisiness here as a keeper of a bar-room & oyster saloon. I know nothing of Margaret Johnson nor her buisiness; do not know how much money she had at that time. George Johnson appeared to be doing well.

4th int. I know nothing further tending to show the pecuniary condition of defendants; don't know who paid for the improvements on said lot. I know that George Johnson paid the workman for the rock-work, because I saw him pay the money. I know that he paid for the material used for the rock wall, because I sold it to him and received it all but five dollars.

E. W. HOLLAND.

Sworned to and subscribed to before us this 2 Sept., 1869.
THO'S P. WESTMORELAND, *Com.* [L. S.]
W. P. REED, *Com.* [L. S.]

53 PETER LYNCH, aged 41 years, being duly sworn, deposes and says:

1st int. I know all the parties to the above suit; have known George Adair twenty-two years; Gohn T. Glenn, fifteen years; have known Frederick W. Flyn about six years; George Gohnson & Margaret Johnson about fourteen years.

2nd int. I am acquainted with the lot near the mineral-spring, on which George Johnson resides; do not know the number or the size of said lot. I know nothing about the improvements, nor the value of said lot. I do not know what it cost or was worth to erect said improvements on said lot at the time it was done. I do not know what time the said improvements wer' put on said lot. I do not know who had the improvements put on said lot. I do not know who made the contract for putting up said improvements. I do not know who paid for the improvements, or for the material. I think all of the improvements have been put on the said lot since July 9th, 1863.

54 2nd int. I do not know much about the pecuniary condition of George Johnson in July, 1863. He was considered solvent. I do not know to what extent he was indebted in 1863. George Johnson had some merchandize in 1863 in his own name. I do not know whether he had any other property or not. He owned the minerel-spring lot at that time, but do not know whether it was his or his wife's property, but always understood it to be his wife's. His mercha'dize was chiefly

liquors and gro'eries, worth three or four thousand dollars in confederate money. The minerel-spring lot was worth one thousand dollars in confederate money. It was in poor condition when he got it.

4th int. I do not know whether Margaret, in July, 1863, owned or possessed any seperate property of her own, if she did not own the minerel-lot spring.

5th int. I do not know whether the def't Margaret Johnson
55 car'ied on any buisiness distinct from that of her husband previous to July 9th, 1863. Witness knows nothing further in answer to inter'ogatory fifth.

6th int. I know nothing further that will benefit either party to this suit?

Cross-interrogatories:

1 int. I know nothing as to the value of the improvements on said lot. I know nothing about the improvements on said lot. George Johnson is not indebted to me. He was not at the time he filed his petition in bankruptcy.

2 int. I was living in Atlanta, Ga., in July, 1863. I never was acquainted with the pecuniary condition of George Johnson & Margaret Johnson. I had no opportunities for knowing the'*re* pecuniary condition. I expressed no opinion in reference to their pecuniary condition.

56 3 int. I do not know that Margaret Johnson was engaged in any seperate buisiness. George Johnson was engaged hotel-keeping, bar-keeping, and boarding-house previous to July, 1863. Margaret Johnson was with her husband, George Johnson. I do not know how much money Margaret Johnson had of her own. I do not think that George Johnson was a prosperous man at that time.

4th int. I know nothing further tending to show the pecuniary condition of George Johnson or Margaret Johnson, in July 9th, 1863. I do not know who paid for the improvements placed on said lot, or who paid the workmen, or who paid for the material placed on said property.

PETER LYNCH.

Answered, sworn to, and subscribed before us at Atlanta, Ga., this Sep't 2, 1869.

THO'S P. WESTMORELAND, *Com.* [L. S.]
WALLACE P. REED, *Com.* [L. S.]

57 JOHN BRIDEWELL, aged 32 years, being duly sworn, deposes and says:

Int. 1. I know all the parties to the above-stated suit except John T. Glenn. I have known George Johnson and Mrs. Margaret Johnson, about ten years; have known Frederick N. Flynn about ten years, and George Adair about ten or twelve years.

2nd int. I am acquainted with the lot near the minerel spring, wher'on George Johnson lives; do not know the number. I am acquainted with the improvements on said lot. The improvements consists in a two-story dwelling-house with brick bacement, two stone walls extending around two sides of the lot. Pailing fence on three sides. I do not know the value of the lot without the improvements. I do not know the value of the improvements. I do not know what it cost or was worth to erect said improvements and furnish the material, at the time it was done. I think the house was built in 1867. I put the stone work
58 on *on* said lot in 1868. I do not know who had the dwelling-house built. George Johnson made the contract with me for the stone-work. I do not know who acted in making the contracts for any of the improvements, except the stone-work. George Johnson made the con-

tract with me for the stone-work. George Johnson paid me for the stone-work. I do not know who paid the other workmen. George Johnson bought the rock for the fence and paid for them. I do not know who bought and paid for the other materials. All the improvements on said lot have been put on since July 9th, 1863.

3 int. Witness knows nothing in answer to inter'ogatory 3rd.

4th int. Witness knows nothing in answer to inter'ogatory 4th.

5th int. He answers he knows nothing.

59 6th int. I know nothing else that will benefit either party in this case.

Cross-interrogatories:

1 int. I did not state the value of the improvements on said lot. I express no opinion. The improvements are a two-story dwelling-house with brick bacement, two stone walls on two sides of the lot, and plank pailings on three sides. George Johnson is not indebted to me; was not at the time of filing his petition in bankruptcy.

2nd int. I was living in Atlanta, Ga., on the 9th day of July, 1863. I never became acquainted with the pecuniary condition of George Johnson & Margaret Johnson. I had no opportunities for knowing the're pecuniary condition. I express no opinion in reference to their pecuniary condition.

3 int. I know nothing about the buisiness carried on by George Johnson or Margaret Johnson, pryor to July 9th, 1863. I do not know what buisiness either of them was engaged in at that time. I do not

60 know how much money Margaret Johnson had at that time of her own. I do not know whether George Johnson was a prosperous man, and well to do in the world at that time or not.

4th int. I know nothing further tending to show the pecuniary condition of Margaret or George Johnson pryor to July 9th, 1863. I do not know who paid for the improvements on said lot except for the stone-work; that he paid me. I do not know who settled with the workmen except myself. George Johnson paid me. I heard George Johnson say he paid for the rock which were put upon said lot. I do not know who paid for the other material.

his
JOHN + BRIDEWELL.
mark.

Sworn to and subscribed to before us at Atlanta, Ga., this Sept. 3, 1869.

THO'S P. WESMORELAND, *Com.* [L. S.]
WALLACE P. REED, *Com.* [L. S.]

WILLIAM KNOWLES, aged 21 years, being duly sworn, deposes as follows, to wit:

1st int. I know all the parties to the above-stated cause; have known George Johnson ten years; have known Flynn, George Adair, five years; Genn five years.

2 int. I know the city lot with improvements thereon near the minerel spring, on which George Johnson now resides. The lot has on it a wooden frame house with a brick basement and is enclosed with a wooden fence, and I think a rock-wall. I do not know the value of the lot or what the improvements are worth, or what it cost or was worth to put said improvements on the lot, at the time the work was done. I think the improvements were erected during *during* the year 1867. George Johnson had said improvements put on the lot. George John-

son acted in making some of the contracts for having said im-
62 provements put up. George Johnson paid some of the workmen for the work. I paid some of them by his order. I never heard of the workmen being paid by any one else. George Johnson bought most of the material used in said improvements. Do not know that any one else bought any of said material. George Johnson paid for all of the material that I know anything about. All the improvements on said lot have been erected since July, 1863.

3rd int. Do not know much about George Johnson's pecuniary condition, in July, 1863. He appeared to have money. Do not whether or not he was solvent at that time. I do not know that George Johnson was at that time indebted to any extent. To the best of my recol-'ection, George Johnson controlled the minerel-spring lot. It was claimed by his wife. Said lot adjoines the mineral-spring on the
63 west side of the Macon & Western Railroad, and contains about an acre.

4th int. I think Margaret Johnson claimed the mineral-spring lot as her own property, pryor to the 9th day of July, 1863. I do not know when she obtained it. I have heard her say she purchased it from Dr. Powel. I do not know how or with what means she obtained it.

5th int. I do not know that Margaret Johnson car'ied on any business distinct from that of her husband, pryor to July 9th, 1863. Witness knows nothing in answer to interrogatory fifth.

6th int. I know that George Johnson paid for the improvements out of money that he received in his business. I know nothing
64 further material to the cause, nor can I set forth anything that will benefit the parties.

Cross-inter'ogatories:

1st int. I do not know the value of the improvements described in the second inter'ogatory. I expresseed no opinion as to their value. The improvements consist in a wooden dwelling with a brick bacement and a rock-wall with a wooden fence encloseing the lot. Defendant George Johnson *Johnson* is indebted to me. He was at the time of fileing his petition in bankruptcy.

2nd int. My home was in Atlanta, on the 9th July, 1863. Do not remember whether or not I was in the city at that time. What I have stated in refference to the pecuniary condition of George Johnson, I learned while in his employment and living with *with* him in 1863. In the same way I became acquainted with Margaret Johnson's pecuniary condition. My opportunities for knowing their pecuniary con-
65 dition consisted in the fact of my living with them and being employed by George Johnson. My opinion in refference to their pecuniary condition is based upon what I have heard from George Johnson & Margaret Johnson, while living with them.

3rd int. I do not know that Margaret Johnson car'ied on any business, pryor to July 9th, 1863. George Johnson carried on, previous to that date, a bar-room, hotell, & eating-house, and I have heard him say he was formily in the show business. I do not remember exactly what he was doing, on the 9th day of July, 1863; do not know that Margaret Johnson was then engaged in any business; do not know how much money Margaret *Margaret* Johnson had of her own. George Johnson was at that time a prosperous man, well to do in the world.

4th int. Cannot state anything further tending to show the
66 pecun'ary condition of George Johnson and Margaret Johnson, on the 9th day of July, 1863. I know that Geo. Johnson paid

for the improvements on said lot, because I saw him pay for some of them, and I made payments myself, by his order, for some of them. I know that George Johnson settled with some of the workmen, because I saw him. I saw George Johnson pay for some of the materials placed on said lot, and I paid for some by his order.

W. G. KNOWLES.

Sworn to & subscribed before us this 3 Sept., 1869.

THO'S P. WESMORELAND, *Com.* [L. S.]
WALLACE P. REED, *Com.* [L. S.]

FRANK RICE, aged thirty-one years, being duly sworn, answers and deposes as follows, to wit:

1st int. I know the parties to the above stated-case; have known them ever since they came to Atlanta.

2nd int. I am acquainted with the lot near the mineral spring
67 in Atlanta, on which George Johnson resides. The improvements consist in a wooden building with a brick basement; this, with fences, walls, &c., are probably worth about twenty-five hundred dollars; do't know the value of the lot. I sup'ose it was worth, and probably cost, twenty-five hundred dollars to erect the improvements on said lot and furnish the material, at the time said improvements wer' erected. I do not know the exact time when said improvements were erected. It was since the war. Think it was in 1866 or 1867. It was my understanding that George Johnson had the improvements placed on said lot. I do not know who acted in making the contract or contracts for having said improvements put up; do not know who paid the workmen for putting up said improvements. At different times George Johnson bought lumber from the firm of Murphy, Rice & Co., of which firm I was at that time a member. George Johnson
68 paid for said materials, and I received the money for the firm. All the improvements on said lot have been put there since the 9th day of July, 1863.

3rd int. I do not know the pecuniary condition of George Johnson in July, 1863. He appeared to have plenty of money; do not know whether he was solvent or not at that time; do not know anything about George Johnson's indebtiness at that time; do not know whether or not at that time Johnson had any property in his own name or that of his wife.

4th int. Do not know whether Margaret possessed any property of her own, previous to the 9th day of July, 1863.

5th int. I do not know whether or not Margaret Johnson pursued or carried on any buisiness in her own name, distinct from that of her husband, previous to 9th day of July, 1863; do not know anything further in regard to inter'ogatory fifth.

69 6th int. Witness knows nothing further material to the case except that he gave George Johnson receipts for money paid by him to the firm of Murphy, Riche & Co., for lumber.

Cross-inter'ogatories:

1st int. My estimate of the value of the improvements on George Johnson's lot is baced upon my kno'lledge of building, and the lumber and brick buisiness, and the cost of labor. The improvements on said lot consists of a wooden dwelling, with brick basement, rock-walls with fences, & grading of the lot. George Johnson is not indebted to me—he was not at the time of fileing his petition in bankruptcy.

2d int. I was living in Atlanta, on the 9th July, 1863. I knew nothing of the pecuniary condition of Margaret Johnson, and knew nothing of George Johnson except what he told me. I had no opportunities of knowing the pecuniary condition of Margaret Johnson, and only
70 knew Georg' Johnson as a business man. I knew nothing about Margaret Johnson's pecuniary condition. George Johnson told me that, after the war, he had money—gold and silver.

3d int. I believe George Johnson kept a hotell pryeor to July, 1863; do not know what Margaret Johnson did at that time; do not know in what business Margaret Johnson was engaged *in* at that time; do not know how much money Margaret Johnson had at that time; do not regard George Johnson as a man well to do in the world at that time.

4th int. I cannot state anything further going to show the pecuniary condition of Margaret Johnson and George Johnson, in 1865. I do not know who paid for the improvements, except that George Johnson paid Murphy, Rice & Co. for lumber used in said improvements; do not know who settled with the workmen. I know that George
71 Johnson paid Murphy, Rice & Co. for a portion of the lumber, because I collected the money. I do not know who paid for the other material.

FRANK P. RICE.

Answered, sworn to, & subscribed before us, at Atlanta, Ga., this 2 day of Sept., 1869.

THO'S P. WESMORELAND, *Com.* [L. S.]
WALLACE P. REED, *Com.* [L. S.]

B. J. POOLE, aged 39 years, being duly sworn, deposes and saith:

1st int. I know George Johnson and George Adair; have known Johnson three or four years, and G. W. Adair one or two years.

2d int. I am acquainted with a certain city lot near the mineral spring, and the improvements thereon, whereon George Johnson now resides. The improvements consists in a house, with brick basement, with rock or st*orey* on top of it, enclosed by a fence, a portion of
72 which is partly made of rock. I do not know what the lot is worth without the improvements. I thought the improvements would be worth from two thousand to thirty-five hundred dollars. I do not know what it cost to put up said improvements, or w'at it was worth at the time they were put up, and furnish the material. I think the improvements were put on said lot in 1867. George Johnson employed me *me* to do what work I did on them, which was a portion of the wood-work. George Johnson made the contract. George Johnson paid me the money for the work that I did. I do not know who bought the material for making said improvements. Do not know who paid for them. All the improvements have been put on the lot since July 9th, 1863.

3 int. I did not know anything about George Johnson's pecuniary condition in July, 1863. Witness knows nothing furthe' in answer to inter'ogatory 3d.

73 4th int. I know nothing in answer to inter'ogatory 4th.

5 int. I know nothing in answer to inter'ogatory 5th.

6th int. I know nothing further that would benefit any of the parties to this cause or that would be material to the matter in this suit.

Cross-inter'ogatories:

1 int. X. I base my opinion of the value of the improvements upon

said lot from my kno'lledge as a builder and the general appearence of the improvements. There is a dwelling-house with brick basement, inclosed with a fence, a part of which is rock. George Johnson owes me about twenty dollars, balance for work done on said house. I do not know whether he was indebted to me or not when he filed his petition in bankruptcy, not knowing when he filed his petition.

74 2 int. X. I was living in Atlanta, Ga., in July, 1863. Witness knows nothing further in answer to x-inter'ogatory 2.

3 int. X. I know nothing in answer to int 3.

Int. 5. X. I know nothing tending to show the pecuniary condition of George Johnson or Margaret Johnson, prior to July 9, 1863. I know that Georg' Johnson paid me for the work that I did on the improvements. I received the money from him. I do not know who settled with the other workmen. I do not know who paid for the material.

B. J. POOLE.

Sworn to and subscribed before us, Atlanta, Ga., this Sept. 2d, 1869.

THO'S WESMORELAND, *Com.* [L. S.]
WALLACE P. REED, *Com.* [L. S.]

William O. Haloran is absent from the city and Ben'j Thurman is unwell; neither witness can be examined.

THO'S P. WESMORELAND, *Com.*
WALLACE P. REED, *Com.*

75 In the district court of the United States for the northern district of Georgia.

JOHN T. GLENN & GEORGE W. ADAIR, ASSIGNEES of George Johnson, bankrupt,
vs.
FREDERICK M. FLYNN, TRUSTEE FOR MRS. Margaret Johnson, Margaret Johnson, & George Johnson.
} Bill for relief.

Examinations and depositions of witnesses produced, sworn, and examined by the undersigned commissioners, in virtue of the annexed commission issuing out of the honorable district court of the United States for the northern district of Georgia, taken and reduced to writing, in the city of Atlanta, County of Fulton, and State of Georgia, on this day of September, 1869.

PINK SANDERS, aged 42 years, being duly sworn, answers and deposes as follows, to wit:

1st. To the first direct interrogatory the witness answering saith, that he knows all the parties to the cause above stated, except Frederick W. Flynn, trustee of Mrs. Margaret Johnson; have known George Johnson about three years, or between three and four years; have known

76 Mrs. Margaret Johnson between one and two years; have known John T. Glenn, five or six years; and George W. Adair, between three and four years.

Interr'y 2. I am acquainted with a certain city lot and its improvements, in Atlanta, near the mineral springs, whereon George Johnston now lives; do not know how much land the lot contains; do not know the number of said lot. I cannot give a particular description of the improvements; they consist in a dwelling-house with brick basement

and one story of wood, I think between 50 and 60 feet in length and between 21 and 25 feet in width; there is also a platform on one side of the building, the whole enclosed by palings. Not knowing the size of the lot, I cannot give its probable value. I think the improvements are worth three thousand dollars. I do not know what it was worth to erect said improvements and furnish the material at the time that it was done, not being a mechanic. The improvements were put on said lot in 1867, and probably in the first of 1868. George Johnson was the only person I knew in the matter. I do not know who made the contract for erecting the building nor do I know who paid the workmen for
putting up said improvements. George Johnson bought lumber
77 for the building from me; he made the contract with me for it;
he paid the money, and I knew no one else in the transaction but
him. The improvements on the lot, except the shed of lattice over the spring, has been put there since the 9th day of July, 1863.

Int'rr'y 3. I did not know George Johnson in July, 1863, consequently knew nothing about his pecuniary condition at that time. I knew nothing about his indebtedness at that time. I do not know whether said Johnson at that time held any property in his own name or that of his wife.

Int'rr'y 4th. I do not know whether or not the defendant Margaret Johnson, owned or possessed any separate property, previous to the 9th day of July, 1863.

Int'r'ry 5. I did not know defendant in 1863, consequently know nothing about her business at that time.

Int'rr'y 6. I think in making the last payment George Johnson took my receipt in the name of Mrs. Margaret Johnson, his wife; but George Johnson made the contract and paid me the money for all the lumber I
let him have.

78 Cross-interrogatories:

1st X-interr'y. I have my idea of the value of the improvements on lot described in the 2nd interrogatory on the knowledge that I have of the cost of other buildings of like character, the amount of lumber that I furnished for said improvements, and the amount of brickwork thereon. I gave the items, to the best of my knowledge, in my answer to the second direct interrogatory, to wit, a dwelling-house with platform on one side, the whole enclosed with plank palings. The defendant, George Johnson, is not indebted to me. He was not indebted to me that I know of when he filed his petition in bankruptcy, for I do not know when he filed his petition.

2nd X-int'rr'y. I was living, in July, 1863, six miles from Atlanta, on the McDonough road, near Little River. I never became acquainted with the pecuniary condition of the defendants George Johnson & Margaret Johnson. I had no opportunities for knowing their condition.

3rd X-int'rr'y. I know nothing about the business carried on by George Johnson or Mrs. Margaret Johnson, in 1863.

4th X-int'rr'y. I know nothing tending to show the pecuniary
79 condition of George Johnson or Margaret Johnson, in 1863, nor
nothing as to who paid for the improvements or the workmen. I only know that George Johnson paid me for lumber put in said improvements.

P. SANDERS.

Sworn to & subscribed before us, at Atlanta, Ga., this Sept. 1st, 1869.

THO'S P. WESTMORELAND, [L. S.]
Comm'r.

WALLACE P. REED, *Comm'r.* [L. S.]

JAMES WILLIAMS, aged 43 years, being duly sworn, answers and deposes as follows, to wit:

1st interr'y. I know all the parties to the above-stated cause; have known all the parties, except Flynn, for twelve or fifteen years; have knowu Flynn for three or four years.

2nd int'rr'y. I know the lot near the mineral spring, in Atlanta, on which Geor. Johnson resides; do not know its extent or number; do not know the value of its improvements; cannot give a description of the improvements, and the value of the lot, nor value of the improvements; do not know what it cost or was worth to erect said improvements at the time they were erected. I do not know the exact time said improvements were put on the lot; it has been since the surrender; do not know who had the improvements put on the lot; do not
80 know who acted in making the contract or contracts for erecting the improvements; do not know who paid the workmen for work in putting up the improvements; do not know who bought the material for the improvements nor who paid for them. The improvements on said lot have been put on since July, 1863, to the best of knowledge and belief.

3rd interrogatory. I do not know the pecuniary condition of George Johnson, in July, 1863; do not know whether or not he was solvent or insolvent; do not know that he was at that time indebted to any extent; do not know what property George Johnson had at time in his own name or that of his wife.

4th interr'y. I know nothing in answer to interrogatory 4th.

5th interr'y. I know nothing in answer to interrogatory 5th.

6th int'rr'y. I know nothing in answer to interrogatory 6th.

Cross-interrogatories:

1st X-int'rr'y. I know nothing about the value of the improvements on said lot; cannot give the items of improvements. Defendant George Johnson, is not indebted to me at this time that I know
81 of. He was not indebted to me at the time he filed his petition in bankruptcy.

2nd X-interr'y. I was living in Atlanta, on the 9th July, 1863. I never became acquainted with the pecuniary condition of defendants Margaret Johnson and George Johnson; had no opportunities for knowing their pecuniary condition; have expressed no opinion in reference to their pecuniary condition.

3rd X-interr'y. I know nothing of the business carried on by the defendants, prior to July, 1863. I do not know what business Geo. Johnson was engaged in in 1863, nor what business Mrs. Margaret Johnson was engaged in; do not know how much money Mrs. Margaret Johnson had of her own; do not know whether or not Geo. Johnson was at that time a prosperous man, well to do in the world.

4th X-interr'y. I know nothing further tending to show the pecuniary condition of Geo. Johnson and Mrs. Margaret Johnson, on July 9th, 1863; do not know who paid for improvements placed on said lot; do not know who settled with the workmen nor who paid for the materials placed on said property.

JAMES E. WILLIAMS.

Sworn to & subscribed befor' us this 2nd Sept., 1869.

THO'S P. WESTMORELAND, *Comm'r.* [L. S.]

WALLACE P. REED, *Comm'r.* [L. S.]

82 MARTIN DALY, aged forty years, being duly sworn, deposes and answers as follows, to wit:

1st interr'y. I know all the parties to the above-stated cause. I have known defendants George Johnson and Mrs. Margaret Johnson, since 1853 or 1854. Have known Frederick W. Flynn some eleven or twelve years, and John T. Glenn and George W. Adair about ten years.

2nd interr'y. I am acquainted with the lot near the mineral spring, in Atlanta, Ga., on which George Johnson resides. I cannot give a description of the improvements on said lot, nor the value of the lot, nor the value of the improvements; do not know what it cost, or what it was worth to put the improvements on said lot and furnish the materials at the time the work was done. Witness knows nothing further in answer to interrogatory 2nd.

3rd interr'y. Witness knows nothing in answer to interrogatory 3rd.

4th interr'y. Witness knows nothing in answer to interrogatory 4th.

5th interr'y. Witness knows nothing in answer to interrogatory 5th.

6th interr'y. Witness knows nothing in answer to interrogatory 6th.

83 Cross-interrogatories:

1st X-interr'y. I know nothing about the improvements or their value on said lot. Defendant George Johnson is not indebted to me. He was not indebted to me when he filed his petition in bankruptcy.

2nd X-interr'y. I was living in Atlanta, in July, 1863. I never became acquainted with the pecuniary condition of George Johnson and Margaret Johnson; had no opportunities of becoming acquainted with their pecuniary condition nor expressed any opinion.

3 X-int'rr'y. I know nothing about the business carried on by Geo. Johnson and Margaret Johnson, prior to July, 1863; do not know what business Geo. Johnson was engaged in, nor what business Mrs. Margaret Johnson was engaged in; do not know how much money Mrs. Margaret Johnson had of her own; do not know whether or not Geo. Johnson was at that time a prosperous man—well to do in the world.

4th X-interr'y. Witness knows nothing in answer to cross-interrogatory 4th.

MARTIN DALY.

84 Sworn to & subscribed before us, this 2nd Sept., 1869.

THO'S P. WESTMORELAND, *Comm'r.* [L. S.]

WALLACE P. REED, *Comm'r.* [L. S.]

CHARLES POWELL, aged 59 years, being duly sworn, deposes & says:

1st interr'y. I know all the parties to the above suit. I have known George Johnson and wife about six or seven years. I do not think that I know Frederick W. Flynn. I have known George W. Adair and John T. Glenn about four years.

2nd interr'y. I am not acquainted with the lot or improvement on which George Johnson now resides. Witness nothing further knows in answer to interrogatory 2nd.

3 interrogatory. I do not know anything about the pecuniary condition of George Johnson in 1863. I do not know whether he was solvent or not; do not know whether he was indebted or not. I do not know whether he, George Johnson, had any property in his own name or in that of his wife, in 1863.

4th interrogatory. I know nothing in answer to interrogatory 4th.

5th interrogatory. I know nothing in answer to interrogatory 5th.

6th interrogatory. I know nothing further that will benefit either party to this cause, or that will be material to the matter in this suit.

85 Cross-interrogatories:

1st X-interrogatory. I know nothing of the value of the improvements on said property; cannot give the items of improvement on said property. George Johnson is not indebted to me. He was not indebted to me when he filed his petition in bankruptcy.

2nd X-interrogatory. I was with the confederate army in July, 1863. Witness knows nothing further in answer to interrogatory 2nd.

3 X-interrogatory. I know nothing in answer to X-interrogatory 3rd.

4th interrogatory. I know nothing in answer to X-interrogatory 4th.

C. POWELL.

Answered, sworn to, & subscribed before us, at Atlanta, Ga., this Sept. 2nd, 1869.

THO'S P. WESTMORELAND, *Comm'r.* [L. S.]
WALLACE P. REED, *Comm'r.* [L. S.]

86 UNITED STATES OF AMERICA.
Northern District of Georgia:

In the district court of the United States for the northern district of Georgia.

M. P. BYINGTON & W. M. BUTT, greeting

Know ye that, in confidence of your prudence and fidelity, you are hereby appointed, and by these presents are vested, (any two or more of you,) with full power and authority, diligently to examine all witnesses whatsoever, upon certain interrogatories to be exhibited to you in a certain cause, pending and to be tried in the said court, between John T. Glenn & George W. Adair, assignees, plaintiffs, and Frederick W. Flynn, Mrs. Margaret Johnson, and Georg' Johnson, defendants, as well on the part of the defendants as on the part of the plaintiffs, or either of them.

And it is required of you (or any two or more of you) that, on certain days, and at certain places, by you to be appointed for that purpose, you do cause the said witnesses to come before you, and then and there to examine them upon the said interrogatories on their corporal oath first taken before you (or any two or more of you) on the Holy Evangelists; and that you do take such, their examination, and reduce it into writing; and when you shall have so taken it you are to send the same to the clerk of the district court of the United States for the northern district of Georgia, at Atlanta, closed up and under your seals (or the seals of any two of you), distinctly and plainly set, together with the said interrogatories and this writ; and further, that you and each of you, before you act in or be present at the swearing or examining any witness or witnesses, do severally take the oath first specified in the schedule hereunto annexed; and full power is given you, or either of you, jointly or severally, to administer such oath to the rest, or any other of you upon the Holy Evangelists. And it is further required of you that all and every of the clerk or clerks employed in taking, writing, transcribing, or engrossing the deposition or depositions of witnesses to be examined by virtue of these presents, shall, before he or they be permitted to act as clerk or clerks as aforesaid, or be present at such an examination, severally take the oath last specified in the said schedule annexed; and full power and authority is also given you, or any of you, jointly or separately, to administer such oath to such clerk or clerks upon the Holy Evangelists.

Witness the Honorable John Erskine, judge of said district court, this tenth day of September, in the year of our Lord one thousand eight hundred and *seventy* sixty-nine, and ninety-fourth year of American Independence.

[SEAL.] W. B. SMITH, *Clerk.*

87 *The commissioners' oath.*

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the above commission, upon the interrogatories now produced and left with you; and you shall not publish, disclose, or make known to any person or persons whatsoever, except to the clerk or clerks by you employed, and sworn to secrecy in the execution of this commission, the contents of all or any of the depositions of the witnesses, or any of them, to be taken by you and the other commissioners in the said commission named, or any of them, by virtue of the said commission, until publication shall pass by rule or order of said court. So help you God.

M. P. BYINGTON, *Commissioner.*
W. M. BUTT, *Commissioner.*

The clerks' oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take and write down, transcribe and engross the depositions of all and every witness and witnesses produced before and examined by the commissioners, or any of them, named in the commission hereunto annexed, so far forth as you are directed and employed by the said commissioners, or any of them, to take, write down, or engross the said deposition, or any of them; and you shall not publish, disclose, or make known to any person or persons whatsoever, the contents of all or any of the depositions of the witnesses, or any of them, to be taken, wrote down, transcribed, or engrossed by you, or whereto you shall have recourse, or be in any wise privy, until publication shall pass by rule or order of the said court. So help you God.

M. P. BYINGTON.

Instructions for the commissioners.

Commissions for examining witnesses may be forwarded by mail, and when executed may be returned in the same mode, provided that, in the latter case, the commissioner who deposits it in the post-office certify the same on the envelope over the seal; and if deposited by a messenger, that the commissioner certify the delivery to the messenger, and the messenger certify the delivery to the office. And if it should pass through any number of hands successively, the same to be done by each, noting every stage of its progress, until delivered into the office. (Rule of court, No. 52.)

Upon the receipt of the commission, one of the commissioners will read it. The acting commissioners and the clerk will take and subscribe the oaths at the foot of commission. The commissioners may be sworn, one by the other, and the clerk by one of them. Then they proceed to take, and the clerk to engross, the depositions of the witnesses, to which depositions there will be a caption stating the case and cause of action in the following form:

In the district court of the United States for the northern district of Georgia.

A. B. }
vs. } Case.
C. D. }

Examinations and depositions of witnesses produced, sworn, and examined by the undersigned commissioners, in virtue of the annexed commission, issuing out of the honorable the district court of the United States for the northern district of Georgia, taken and reduced to writing, in [the place where the commission is executed], on this day of 18 .

E. F., aged years, being duly answers and deposes as follows, to wit:

To the first interrogatory the witness answering, saith:

And so to each successive direct interrogatory.

Then follow the cross-interrogatories, if any.

The witness must subscribe his name at the foot of his deposition and in the margin of each sheet, if more than one; and the commissioners attest the same as sworn to and subscribed in their presence. The attestation of the commissioner must appear at the foot of the deposition of each witness, if more than one. The deposition must be attached to the commission. Each commissioner writes his name across a seal of the envelope, and the package is directed to the clerk as stated in the body of the commission. The title of the cause must appear on the outside of the envelope.

If the commission be returned by a messenger, he must deliver it personally to the clerk and make the usual affidavit.

88 In the district court of the United States for the northern district of Georgia.

JOHN T. GLENN & G. W. ADAIR, ASSIGNEES, }
vs. } In equity. Bill f' relief, &c.
FREDERICK W. FLYNN, MRS. MARGARET JOHNSON, George Johnson. }

Examination & deposition of witnesses produced, sworn, & examined by the undersigned commissioners, in virtue of the commission issuing out of the honorable the district court of the United States for the northern district of Georgia, taken and reduced to writing in the city of Atlanta, county of Fulton, and State of Georgia, this 11th day of September, 1869.

FREDERICK W. FLYNN, aged forty years, being duly sworn, answers and deposes as follows, to wit:

To the first direct interrogatory the witness answering says: I knew George Johnson and Mrs. Margaret Johnson slightly in 1860, and became intimately acquainted with them in 1862. George Johnson was engaged in the hotel business, & Margaret Johnson with him, in 1860. In 1862 George Johnson was keeping a general trading-house, & Margaret Johnson was keeping a dining saloon.

To the second direct interrogatory the witness answering says:

89 She had the dining-saloon referred to in my answer to the first

question. I know of no other. I know of none but the dining-saloon. George Johnson was, on the 9th of July, 1863, living at his house in Atlanta. He was engaged as sutler in the Army at that time. My opinion is that he was at that time solvent.

To the third direct interrogatory the witness answering says: Margaret Johnson was at that time engaged in the said dining-saloon, & also a wine & cigar saloon. She earned money by her business in those saloons. I do not know what means she had when she married George Johnson. On the 9th day of July, 1863, George Johnson appeared to me to be possessed of considerable means, from the fact that he loaned me money to help me in my own business. Margaret Johnson at that time seemed to be doing a large & lucrative business.

To the fourth direct interrogatory the witness answering says: I know that she acquired means from the business in which she was engaged at that time, because I know of her buying for herself a homestead with what was said to be her own money, and since that time she has acquired means for herself, (by and with the consent & per-
90 mission of her husband,) by keeping a private boarding-house. All the business done by her has been done by and with the consent of her husband.

To the first cross-interrogatory the witness answering says: I did not buy the mineral-spring lot from Powell. I did not pay the money for it. I did not see Margaret Johnson pay for it. George Johnson and Margaret Johnson did not tell me that George Johnson paid for the lot, but they both told me that Margaret Johnson had paid for the lot. I was consulted by them before the purchase and was advised of the transaction and had given my consent, as trustee.

F. W. FLYNN.

Sworn to and subscribed before us, this 11th day of September, 1869.

M. P. BYINGTON, [L. S.]
Commissioner.
W'M M. BUTT, [L. S.]
Commissioner.

GEORGE JOHNSON, aged fifty-one years, being duly sworn, answers, deposes, and says as follows, to wit:

To the first direct interrogatory the witness answers & says: I first knew Margaret Johnson in 1857. I was then travelling in the
91 show business. Margaret Johnson was then stewardess on a steam vessel.

To the second direct interrogatory the witness answers & says: Margaret Johnson had, when I first married her, money of her own, but I don't know how much. She never asked me for any about that time. She had a separate business of her own. She kept a fancy store & kept a hotel at the same time, in Augusta, in 1852. In 1862 & 1863 she had, in Atlanta, an eating-house and a wine & cigar saloon. In 1854 she had a small fruit store & eating-house, in Atlanta. I was, on the 9th of July, 1863, living in Atlanta; was then a sutler to the army. I was then solvent.

To the third direct interrogatory the witness answers & says: She was keeping an eating-house & wine & cigar saloon in Atlanta. She earned money by attending to the aforesaid business. She had, when she married me, some money, but I don't know how much. I was then solvent & had plenty of money ahead. Margaret Johnson then had plenty of money to buy a house & lot & more besides.

To the fourth direct interrogatory the witness answering says:

92 Margaret Johnson, before the 9th of June, 1863, made money by her business in Augusta & Atlanta, by & with my consent, & did so also since that time in Atlanta.

To the third cross-interrogatory the witness answers & says: I was living in Atlanta then on 9th July, 1863, & had been, during the four years previous to that time, in Atlanta, and longer. In July, 1860, I was trading till about the 1st of October; then opened an eating-house, &c., & continued till the 1st of January, 1861; then kept the Gate City Hotel till the 1st of 1862; then kept a general trading store on Whitehall street, and then in 1863, went as a sutler to the army. Margaret Johnson assisted me in the hotel in 1861. In 1862 she assisted me in the store, part of the time, & part of the time, in 1862 & '63, she kept an eating-house and saloon. We lived in the same house during all this time. We did business in the same house, at the same time. I sometimes assisted her in her business. Sometimes I did trading for her & sometimes she did it for herself. I never made known that I traded for her. It was always a cash business. I traded for sometimes, because I considered myself a better trader than she was and occasionally because of her health.

93 To the fourth cross-interrogatory the witness answers and says: I owed at that time, to the best of my knowledge, between ten & eleven hundred dollars. I have none of the papers now before me by which I can particularize. There were no judgments against me then that I know of. I owned, on the 9th of July, 1863, no real estate. I had three billiard tables, and had ordinary household & kitchen furniture and one horse & two cows & calves. I do not remember how much was owing to me at the time, or who were the parties owing me.

To the fifth cross-interrogatory the witness answers & says: She gave in no property. If she gave in any money I do not know.

In the sixth cross-interrogatory the witness answers and says: I never owned a storehouse & lot on Whitehall street in Atlanta. I had one rented & sold my interest in the lease & my household and cooking furniture to Charles Powell, for which he paid me, but don't now remember how much.

GEO. JOHNSON.

Sworn to & subscribed before me this 11th day of September, 1869.

M. P. BYINGTON, [L. S.]
Commissioner.
W. M. BUTT, [L. S.]
Commissioner.

94 MARGARET JOHNSON, aged forty years, being duly sworn, answers, deposes, and says as follows, to wit:

To the first direct interrogatory the witness, answering says: I first knew George Johnson in 1851. He was then engaged with a circus. I was, in 1852, engaged in a store and hotel.

To the second direct interrogatory the witness answering says: I had money of my own. I had a store and a boarding-house of my own. George Johnson was, on the 9th day of July, 1863, living in Atlanta. He was then sutler in the army. He was then solvent.

To the third direct interrogatory the witness answering says: On the 3rd of July, 1863, Margaret Johnson was engaged in keeping an eating-house & wine & cigar saloon. Earned money by giving my personal atten-

tion to the said eating-house & saloon. I had money when I married George Johnson. George Johnson had money when I married him, but don't know how much. He seemed to have plenty on the 9th day of July, 1863; was solvent. I had at that time plenty of money.

95 In the fourth direct interrogatory the witness answering says: I had, at the time I married George Johnson, means plenty of my own, and from that time continued to use and improve those means by my labor and, with George Johnson's consent, made more money for myself.

To the second cross-interrogatory the witness answering says: My health now is tolerably good; for the last ten years it has not been very good, but during that time, I have been able nearly every day to attend to my business. I had a separate business, in Augusta, in 1852; in 1854 in Atlanta; and in 1862 & '63, in Atlanta. My husband was trading horses in Augusta, 1852. In 1854 he kept a bar-room in Atlanta. In 1862 he was doing a general trading business. In 1863 he was a sutler in the army. My husband always assisted me in my business and I always assisted him. I have one child out of six. He will be 17 in April next.

MARGARET JOHNSON.

Sworn to and subscribed before us, this 11th day of September, 1869.

M. P. BYINGTON, [L. S.]
Commissioner.
W. M. BUTT, [L. S.]
Commissioner.

69 In the district court of the United States for the northern district of Georgia.

JOHN T. GLENN & GEORGE W. ADAIR, assignees,
vs.
FREDERICK W. FLYNN, MRS. MARGARET Johnson, and George Johnson.
} In equity. Bill for relief.

Original interrogatories to be propounded to John Keely, Thomas S. Powell, J. P. Logan, John McGee, Hugh Given, Dr. Pomeroy, Martin H. Dooly, James Purcell, Michael Welch, Martin Daily, and Andrew B. Calhoun, who are material witnesses for the defendants, and who reside in the county of Fulton, in said State of Georgia.

Interrogatory 1st. Do you know the parties to the above-stated cause? How long have you known the defendants?

Interrogatory 2nd. In what year did you first become acquainted with George Johnson, and Mrs. Margaret Johnson? What business was George Johnson then following? What business was Mrs. Margaret Johnson then following?

Interrogatory 3rd. Did Mrs. Margaret Johnson have any separate means of her own; if yea, in what did said means consist? Did Mrs. Margaret Johnson have any separate business of her own; if yea, in what did said business consist? Where was the defendant, George Johnson living, on the 9th day of July, 1863? What business

97 was he engaged in at that time? Was he in a solvent condition at that time?

Interrogatory 4th. What business was Mrs. Margaret Johnson then

engaged in? In what manner did she earn money by her own labor? What means did Mrs. Johnson have when she married George Johnson? What was George Johnson's pecuniary condition, on the 9th day of July, 1863? What was Mrs. Margaret Johnson's pecuniary condition on that day?

Interrogatory 5th. State all facts and circumstances within your knowledge tending to show that Mrs. Margaret Johnson, by her own labor, and with her husband's consent, acquired means of her own, prior to the 9th of July, 1863, and since?

GARTRELL & JACKSON,
Def'ts Sol's.

We except to the first three questions in the 4th direct interrogatory because of being leading; also to the 5th interrogatory as being informal & contrary to rule 71 of equity practice in U. S. courts.
Sept. 7th, 1869.

Cross-interrogatories.

1st cross-int'rr'ry to Thomas S. Powell. Did not George Johnson contract with you for the mineral-spring lot on which he now
98 lives? Did not George Johnson deliver to you the money you received in payment for said lot?

2nd x-interr'y to all the witnesses. How much did George Johnson owe, on the 9th July, 1863? What was the value of his estate on that day? Give the particulars of his indebtedness and also of his estate on that day? Were there any judgments against him on that day? If so, how many & what sum was each judgment for?

3rd x-interrogatory to all witnesses. How much did Mrs. Margaret Johnson owe, on & before July 9th, 1863? What was the value of her separate estate on & before said date? Specify the particulars of her indebtedness and of her estate? What did her separate estate consist in, say on the 6th, 7th, & 8th of July, 1863? How do you know she had at any time any separate estate? Did you know it of your own knowledge or from what you heard her & her husband & others say? When did George & Margaret Johnson get married?

4th x-interrogatory to each witness. Did you ever know Mrs. Margaret Johnson carry on any business without the presence and assistance of her husband; if yea, when, & where, & how long, and what business was it? Where was George Johnson during such time,
99 & what was he engaged at? Was his wife doing business in the same house with her husband or in a different house? Did not George Johnson superintend her business? Did he not do the outdoor business, the trading, &c., & *and* did he not often & usually receive & collect the money arising from the business? How long has Mrs. J. been married, ? How many children has she had? What has usually been the state of her health? Has she usually been a feeble or stout woman?

5th x-interrogatory. Did not George Johnson sell a store-house & lot on Whitehall street, Atlanta, Geo-, in early part of the year 1863, to Charles Powell, for four thousand or five thousand dollars in confederate money?

ARNOLD & BROYLES,
Sol's for Compl'ts.

100 UNITED STATES OF AMERICA,
Northern District of Georgia:
In the district court of the United States for the northern district of Georgia.

greeting:

Know ye that, in confidence of your prudence and fidelity, you are hereby appointed, and by these presents are vested (any two or more of you) with full power and authority, diligently to examine all witnesses whatsoever, upon certain interrogatories to be exhibited to you in a certain cause, pending and to be tried in the said court, between John T. Glenn & George W. Adair, assignees, plaintiffs, against Frederick W. Flynn & Mrs. Margaret Johnson, defendants, as well on the part of the plaintiff, as on the part of the defendant or either of them:

And it is required of you (or any two or more of you,) that, on certain days, and at certain places, by you to be appointed for that purpose, you do cause the said witnesses to come before you, and then and there to examine them upon the said interrogatories, on their corporal oath first taken before you, (or any two of you,) on the Holy Evangelists; and that you do take such their examination and reduce it into writing; and when you shall have so taken it you are to send the same to the clerk of the district court of the United States for the northern district of Georgia, at Atlanta, closed up and under your seals, (or the seals of any two of you,) distinctly and plainly set, together with the said interrogatories, and this writ; and further, that you, and each of you, before you act in, or be present at, the swearing or examining any witness or witnesses, do severally take the oath first specified in the schedule hereunto annexed; and full power is given you, or either of you, jointly or severally, to administer such oath to the rest, or any other of you, upon the Holy Evangelists. And it is further required of you, that all and every of the clerk or clerks employed in taking, writing, transcribing, or engrossing the deposition or depositions of witnesses to be examined by virtue of these presents, shall, before he or they be permitted to act as clerk or clerks as aforesaid, or be present at such an examination, severally take the oath last specified in the said schedule annexed; and full power and authority is also given you, or any of you, jointly or separately, to administer such oath to such clerk or clerks upon the Holy Evangelists.

Witness the Honorable John Erskine, judge of said district court, this tenth day of September, in the year of our Lord one thousand eight hundred and sixty-nine, and ninety-fourth year of American Independence.

101 *The commissioner's oath.*

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the above commission, upon the interrogatories now produced and left with you: And you shall not publish, disclose, or make known to any person or persons whatsoever, except to the clerk or clerks by you employed, and sworn to secrecy in the execution of this commission, the contents of all or any of the depositions of the witnesses, or any of them, to be taken by you and the other commissioners in the said commission named, or any of them, by virtue of the said commission, until publication shall pass by rule or order of said court. So help you God.

W. M. BUTT, *Commissioner.*
M. P. BYINGTON, *Commissioner*

The clerks' oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take and write down, transcribe, and engross the depositions of all and every witness and witnesses produced before and examined by the commissioners, or any of them, named in the commission hereunto annexed, so far forth as you are directed and employed by the said commissioners, or any of them, to take, write down, or engross the said deposition, or any of them: And you shall not publish, disclose or make known, to any person or persons whatsoever the contents of all or any of the depositions of the witnesses, or any of them, to be taken, wrote down, transcribed, or engrossed by you, or whereto you shall have recourse, or be in any wise privy, until publication shall pass by rule or order of the said court. So help you God.

M. P. BYINGTON, *Clk.*

Instructions for the commissioners.

Commissions for examining witnesses may be forwarded by mail, and when executed may be returned in the same mode, provided, that in the latter case, the commissioner who deposits it in the post-office certify the same on the envelope over the seal; and if deposited by a messenger, that the commissioner certify the delivery to the messenger, and the messenger certify the delivery to the office. And if it should pass through any number of hands successively, the same to be done by each, noting every stage of its progress, until delivered into the office.—(Rule of court, No. 52.)

Upon the receipt of the commission, one of the commissioners will read it. The acting commissioners and the clerk will take and subscribe the oaths at the foot of commission. The commissioners may be sworn one by the other, and the clerk by one of them. Then they proceed to take, and the clerk to engross, the depositions of the witnesses, to which depositions there will be a caption stating the case and cause of action in the following form:

In the district court of the United States for the northern district of Georgia.

A. B. }
vs. } Case,
C. D. }

Examinations and depositions of witnesses produced, sworn and examined by the undersigned commissioners, in virtue of the annexed commission, issuing out of the honorable the district court of the United States for the northern district of Georgia, taken and reduced to writing, in the [the place where the commission is executed,] on this day of , 18 .

E. F. aged years, being duly answers and deposes as follows, to wit:

To the first interrogatory the witness answering saith:

And so to each successive direct interrogatory.

Then follow the cross interrogatories, if any.

The witness must subscribe his name at the foot of his deposition and in the margin of each sheet, if more than one; and the commissioners

attest the same as sworn to and subscribed in their presence. The attestation of the commissioner must appear at the foot of the deposition of each witness, if more than one. The deposition must be attached to the commission. Each commissioner writes his name across a seal of the envelope and the package is directed to the clerk as stated in the body of the commission. The title of the cause must appear on the outside of the envelope.

If the commission be returned by a messenger, he must deliver it personally to the clerk and make the usual affidavit.

102 In the district court of the United States for the northern district of Georgia.

JOHN T. GLENN & G. W. ADAIR, ASSIGNEES, *vs.* FREDERICK W. FLYNN, & MARGARET JOHNson & George Johnson. } In equity. Bill for relief, &c.

Examination & deposition of witnesses produced, sworn & examined by the undersigned commissioners, in virtue of the commission issuing out of the honorable the district court of the United States for the northern district of Georgia, taken and reduced to writing in the city of Atlanta, county of Fulton, State of Georgia, on this, the 11th day of September, 1869.

MARTIN H. DOOLY, aged 38 years, being duly sworn, deposes & says, as follows:

To the first direct interrogatory the witness answers & says: I know the parties in the above-stated case. I have known eight or nine years & Margaret & George Johnson twelve years.

To the second direct interrogatory the witness answers & says: I can't remember the year, but it was long before the war, say in 1856 or '57. George Johnson was then keeping hotel; Margaret Johnson was keeping hotel; can't say certainly as to the date.

103 To the third direct interrogatory the witness answers & says: I do not know of her means. I do not know of any separate business of Mrs. Margaret Johnson, only knew her as the landlady at the hotel. I don't know where George Johnson lived, 9th of July, 1863; don't know what business he was engaged in at that time. I don't know what his condition as to solvency was at that time.

To the fourth direct interrogatory the witness answers & says: I do not know what business Margaret Johnson was engaged in at that time. I do not know in what manner she earned money at that particular time. I do not know what means she had when she married George Johnson. I don't know George Johnson's pecuniary condition, on the 9th of July, 1863; don't know Mrs. (Margaret) Johnson's pecuniary condition on that day.

To the fifth direct interrogatory the witness answers & says: I only knew Mrs. Margaret Johnson as landlady of the hotel, and always found her energetic and industrious, seeming to press business about the house; and she often expressed a wish to me that she could only accumulate a sufficiency to enable her to retire from the business

104 with her family and live more quiet and retired.

To the second cross-interrogatory the witness answers & says: I do not know anything of his indebtedness. I don t know anything of the value of his estate; I don't know anything about judgments against him.

To the third cross-interrogatory the witness answers & says: I don't know how much, if anything, she owed. I know nothing of her separate estate. I don't know when they were married.

To the fourth cross-interrogatory the witness answers & says: I have only seen her carrying on the business at the hotel in his absence. I don't know what George Johnson was doing, when absent. I have no recollection of paying George Johnson any money. I have paid Mrs. Johnson money. I don't know how long they have been married. I don't know how many children they have had. She used to be a stout woman. She seems now to be feeble.

To the fifth cross-interrogatory the witness answers & says: I can't tell anything of the house on Whitehall street.

MARTIN H. DOOLEY.

105 Sworn to & subscribed before us, this 11th day of September, 1869.

M. P. BYINGTON, [L. S.]
Commissioner.
W. M. BUTT, [L. S.]
Commissioner.

THO'S S. POWELL, aged 45 years, being duly sworn, deposes & answers & says, as follows, to wit.

To the first direct interrogatory the witness answers & says: I know the parties in the case. I have known Margaret Johnson & George Johnson about eleven years, & have known Flynn about six years.

To the second direct interrogatory the witness answers & says: In 1857 or '58, George Johnson was then keeping hotel. Margaret Johnson was acting with her husband as landlady at the same hotel.

To the third direct interrogatory the witness answers & says: I know of no means which Margaret Johnson had at that time. I know of no separate business at that time. George Johnson lived, on the 9th day of July, 1863, in Atlanta. I don't remember what business he was engaged in at that time. I don't know anything about his solvency at that time.

106 To the fourth direct interrogatory the witness answers & says: I don't know what business Margaret Johnson was then engaged in. I know nothing of the questions in this interrogatory.

To the fifth direct interrogatory the witness answers & says: I know nothing of Margaret Johnson's means of making money, at any time. I only know I sold her a piece of real estate about that time, & she paid me for it; think it was in 1863; may have been sooner or later.

To the first cross-interrogatory the witness answers & says: I can't now say certainly, but am much impressed with the opinion that I sold the land to Margaret Johnson, & that she paid me the money in Judge Erskine's office. I know I gave the deed to Margaret Johnson.

To the second cross-interrogatory the witness answers & says: I know nothing of the questions in this interrogatory.

To the third cross-interrogatory the witness answers & says: I know of nothing propounded in this interrogatory.

To the fourth cross-interrogatory the witness answers & says: I
107 know nothing of Margaret Johnson's separate means or business. I know nothing *in* propounded in this interrogatory, only that Margaret Johnson's constitution has been feeble since I have known her, but she has always been an energetic woman.

To the fifth cross-interrogatory the witness answers & says: I know nothing about the house & lot on Whitehall street.

THO'S S. POWELL.

Sworn to & subscribed to before us, this the 11th day of September, 1869.

M. P. BYINGTON. [L. S.]
Commissioner.
W. M. BUTT. [L. S.]
Commissioner.

Dr. R. S. POMROY, aged 40 years, being duly sworn, deposes & says as follows, to wit:

To the first direct interrogatory the witness answers & says: I know George Johnson & Margaret Johnson & George W. Adair. I have known George Johnson & Margaret Johnson about twelve or thirteen years.

To the second direct interrogatory the witness answers & says: I became acquainted with George Johnson about 1848 or '49, & with
108 Margaret Johnson in about 1856 or '57. George Johnson was, when I first knew him, managing a show. Margaret Johnson, soon after I first knew her, went into the hotel business in Atlanta.

To the third direct interrogatory the witness answers & says: I know nothing of Margaret Johnson having any separate means or business. I don't remember where George Johnson was living, 9th of July, 1863. I don't know anything of his business or solvency at that time.

To the fourth direct interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the fifth direct interrogatory the witness answers & says: I can only say, in answer to this question, that I always found her an industrious, hard-working woman, but know nothing of her means.

To the second cross-interrogatory the witness answers & says: I know nothing of the questions in this interrogatory.

109 To the third cross-interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the fourth cross-interrogatory the witness answers & says: I don't know how many children she has had. She has one now living. She has been a stout woman until recently. I do not know as to the other questions in this .

To the fifth cross-interrogatory the witness answers & says: I don't know anything of the house & lot on Whitehall street.

R. S. POMROY.

Sworn to & subscribed before us, this September 11th, 1869.

M. P. BYINGTON, *Commissioner.* [L. S.]
W. M. BUTT, *Commissioner.* [L. S.]

JOHN MCGEE, aged 32 years, being duly sworn, deposes, answers, & says as follows, to wit:

To the first direct interrogatory the witness answers & says: I know the parties in this cause. I have known George Johnson & Margaret Johnson since 1856 or '57.

To the second direct interrogatory the witness answers & says: I think, in 1856 or '57, they were keeping hotel.

110 To the third direct interrogatory the witness answers & says: I know of no separate means or separate business of Margaret

Johnson at that time. I think George Johnson was, on the 9th day of July, 1863, a sutler in the army. I suppose' him to be in a solvent condition at that time.

To the fourth direct interrogatory the witness answers & says: She was, I think, at that time, keeping an eating-saloon in Atlanta, & earned money by keeping said saloon & kept a kind of boarding-house. I don't know anything of her means when she married George Johnson. George Johnson was, I think, solvent at that time.

To the fifth direct interrogatory the witness answers & says: I know nothing prior to that time, but since that time I know of keeping boarding-house & was a boarder myself at her house.

To the second cross-interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the third cross-interrogatory the witness answers & says: I
111 know nothing of the questions propounded in this interrogatory.

To the fourth cross-interrogatory the witness answers & says: I know Margaret Johnson kept an eating-saloon & boarders on Whitehall street, in Atlanta, in 1863; can't say how long. I think George Johnson was, at that time, in the western army as sutler. George Johnson did not, of my knowledge, superintend her business. I know nothing of George Johnson having anything to do with her business. I don't know how long they have been married. I knew of their having three children. Mrs. Johnson was formerly a very stout woman, but recently she seems to be feeble.

To the fifth cross-interrogatory the witness answers & says: I know nothing of the house & lot on Whitehall street.

JOHN McGEE.

Sworn to & subscribed before us this September 11th, 1869.

M. P. BYINGTON, *Comm'r.* [L. S.]
W. M. BUTT, *Comm'r.* [L. S.]

112 JAMES PURCELL, aged 43 years, being duly sworn, deposes, answers, & says as follows, to wit:

To the first direct interrogatory the witness answers & says: I know G. W. Adair, George Johnson, & Margaret Johnson. I have known George & Margaret Johnson about fifteen years.

To the second direct interrogatory he answers & says: I became acquainted with them in about 1854. George Johnson & Margaret Johnson were then in the boarding-house business in Augusta, Ga.

To the third direct interrogatory the witness answers: I know nothing of the questions propounded in this interrogatory.

To the fourth direct interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the fifth direct interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the second cross-interrogatory the witness answers & says:
113 I know nothing in answer to *to* this interrogatory.

To the third cross-interrogatory the witness answers & says: I know of nothing in answer to this question.

To the fourth cross-interrogatory the witness answers & says: I know of nothing in answer to this interrogatory.

To the fifth cross-interrogatory the witness answers & says: I know nothing of the selling of the house & lot on Whitehall street, Atlanta, Geo.

JAMES PURCELL.

Sworn to & subscribed before us, this 11th day of September, 1869.
M. P. BYINGTON, [L. S.]
Commissioner.
W. M. BUTT, [L. S.]
Commissioner.

JOHN KEELY, aged 30 years, being duly sworn, deposes, answers, & says as follows, to wit:

To the first direct interrogatory the witness answers & says: I know the parties. I have known Margaret & George Johnson eleven years.

114 To the second direct interrogatory the witness answers & says: I think I became acquainted with Margaret & George Johnson in 1858. George Johnson was then keeping the Planters' Hotel at that time. Margaret Johnson was George Johnson's wife at the time & living with him.

To the third direct interrogatory the witness answers & says: I do not know if Margaret had any separate means at that time. I don't know of her having any separate business at the time. I do not know where George Johnson was living, on the 9th of July, 1863; can't say as to what business he was then engaged in; don't know if he was solvent then or not.

To the fourth direct interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the fifth direct interrogatory the witness answers & says: I knew Margaret Johnson in 1862 to be keeping an eating-house in the city of Atlanta, & her husband was then in the army, or rather, was a sutler in the army, but was at home at the time, getting up supplies. Margaret Johnson, before 1861, frequently spent money with me, & often remarked to me when making purchases, that the money she was
115 spending was her own, & that George Johnson knew nothing of it. I came home from the Army in 1865, & went to George Johnson & asked for board, & was refer'ed by him to his wife, Margaret Johnson, who accommodated me with board.

To the second cross-interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the third cross-interrogatory the witness answers & says: I know nothing of questions in *in* this cross-interrogatory.

To the fourth cross-interrogatory the witness answers & says: I knew Margaret Johnson to keep an eating-house in Atlanta, in 1862. George Johnson was, at the time I saw her so engaged, at home, getting up supplies for his own business in the army. She was doing business alone. I know nothing of George Johnson's assisting her or superintending the trading out doors, or receiving the money; don't know how long Mrs. Johnson has been married; don't know how many children she has had. She has usually been *or* of ordinary health.

116 To the fifth cross-interrogatory the witness answers & says: I never knew George Johnson to sell a house & lot in Atlanta on Whitehall street to anybody.

JOHN KEELY.

Sworn to & subscribed before us, Sept. 11th, 1869.
M. P. BYINGTON, *Commissioner.* [L. S.]
W. M. BUTT, *Commissioner.* [L. S.]

Dr. J. P. LOGAN, aged 47 years, being duly sworn, deposes, answers, & says, as follows, to wit:

To the first direct interrogatory the witness answers & says: I know

the parties, except Flynn. I have known Margaret & George Johnson about ten years.

To the second direct interrogatory the witness answers & says: I became first acquainted with them in about 1858 or '59. George Johnson was then, with Margaret Johnson, keeping hotel in Atlanta.

To the third direct interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the fourth direct interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

117 To the fifth direct interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the second cross interrogatory the witness answers & says: I know of nothing propounded in this interrogatory.

To the third cross-interrogatory the witness answers & says: I know nothing of the questions here propounded.

To the fourth cross-interrogatory the witness answers & says: I know nothing of this interrogatory, except that Margaret Johnson has never been regarded by me to be a very robust person, but generally energetic, active, & industrious woman.

To the fifth cross-interrogatory the witness answers & says: I know nothing of this question.

J. P. LOGAN.

Sworn to & subscribed before us, Sept. 11th, 1869.

M. P. BYINGTON, *Commissioner.* [L. S.]
W. M. BUTT, *Commissioner.* [L. S.]

118 MARTIN DALY, aged 40 years, being duly sworn, deposes, answers, & says as follows, to wit:

To the first direct interrogatory the witness answers & says: I know the parties. I have known Margaret & George Johnson fifteen or sixteen years.

To the second direct interrogatory the witness answers & says: I first became acquainted with them 1853 or 1854. George Johnson was then keeping a small grocery-store in the city of Atlanta. Margaret Johnson was then keeping a boarding-house.

To the third direct interrogatory the witness answers & says: I don't know of any separate means of hers. She had a little store which she attended to. George Johnson was, in 1863, with the army. I don't know his condition as to solvency at the time.

To the fourth direct interrogatory the witness answers & says: Margaret Johnson was keeping a boarding-house on Whitehall street, 9th of July, 1863. She earned money by her own labor in keeping a

119 boarding-house; don't know what means she had when she married George Johnson; don't know what was George Johnson's condition, on the 9th of July, 1863; don't know what was Margaret Johnson's condition then.

To the fifth direct interrogatory the witness answers & says: I only know that, for quite a number of years, Margaret Johnson labored industriously to make money, & in all the business I have heretofore mentioned; & also I know that, in 1866, she kept a boarding-house of herself.

To the second cross-interrogatory the witness answers & says: I know nothing of the questions propounded in this.

To the third cross-interrogatory the witness answers & says: I know nothing of the questions propounded in this interrogatory.

To the fourth cross-interrogatory the witness answers & says: I have known Margaret Johnson to carry on business of herself without the assistance of her husband. She kept a boarding-house in Atlanta, Whitehall street, 1863. George Johnson was then with the army.

Margaret Johnson was doing business in a house by herself. I
120 know of nothing as to the rest of this interrogatory, except that Margaret Johnson's health has generally ordinary.

To the fifth cross-interrogatory the witness answers & says: I know nothing of the selling the house.

MARTIN DALY.

Sworn to & subscribed before us, Sept. 11th, 1869.

W. M. BUTT, *Commissioner.* [L. S.]
M. P. BYINGTON, *Commissioner.* [L. S.]

MICHAEL WELCH, aged 35 years, being duly sworn, deposes, answers, & says as follows, to wit:

To the first direct interrogatory the witness answers & says: I know the parties. I have known the defendants Margaret & George Johnson, since about 1854.

To the second direct interrogatory the witness answers & says: I first knew them first 1854. They were keeping boarding-house in Augusta, Ga.

To the third direct interrogatory the witness answers and says: I knew Margaret Johnson to keep small store, in 1856, & attend to it herself She also kept a boarding-house at that time. I can't
121 say if these were her separate business or not. I don't know where Johnson was, on the 9th day of July, 1863; don't know whether he was solvent then or not.

To the fourth direct interrogatory the witness answers & says: I don't know what business Margaret Johnson was then doing; don't know in what manner she earned money by her own labor; don't know what means she had when she married George Johnson; don't know what was George Johnson's pecuniary condition, 9th of July, 1863; don't know what was Margaret Johnson's condition then.

To the fifth direct interrogatory the witness answers and says: I don't know of any other means or resources Margaret Johnson had to make money than those I have already stated.

To the second cross-interrogatory the witness answers & says: I know nothing of the questions here propounded.

To the third cross-interrogatory the witness answers & says: I don't know anything asked in this interrogatory.

To the fourth cross-interrogatory the witness answers & says:
122 I know of nothing as to this, except what I have already answered in my direct interrogatory.

To the fifth cross-interrogatory the witness answers & says: I know nothing of this question.

MICHAEL WALCH.

Sworn to & subscribed before us, Sept. 11th, 1869.

M. P. BYINGTON, *Commissioner.* [L. S.]
W. M. BUTT, *Commissioner.* [L. S.]

123 In the district court of the United States for the northern district of Georgia, at Atlanta, in said district, on the 22nd day of September, 1868.

IN THE MATTER OF GEORGE JOHNSON, BANKRUPT. } In bankruptcy.

A list of debts proved and claimed under the bankruptcy of George Johnson, claiming the lien and priority, with the dividend to which each is entitled, the same declared thereon this day by Lawson Black, esq'r, one of the registers in bankruptcy of said court.

	Names of creditors.		Nature of lien.	Sum proved.	Dividend.
	Angier, N. L.		Mortgage. 7th Aug., 1867	747 57	747 57
	Adair, George W.		Judgment. 10 " "	50 87	50 87
	Clayton, J. W., & Co.	Atlanta, Ga.	" " "	332 33	332 33
	Dobbins, M. G.		Mortgage. 31st Jan'y, "	490 25	490 25
	Calhoun, J. M., trustee.		Vendor's lien. (Paid)	250 50	250 50
	Gavin, John.		Judgment	13 00	13 00
	Kern, J. B., & Co., Phila., Pa		" 18th Dec'r, 1860	435 13	435 13
	Knowles, G. W		Clerk's wages. (Paid)	50 00	50 00
	Mayor & council, Atlanta		Tax fi. fa. 28th Oct., 1867	156 50	156 50
	Martin & Wood, Phila., Pa		Judgment. 1st April, 1861	401 53	401 53
	Parsons, Edward.		" 5th Oct., 1859	341 11	341 11
	Philips, W. R.		Mortgage. 4th Sept., 1867	1,058 59	1,058 59
	Phillips, W. R.	Atlanta, Ga.	Judgment. 24th May, "	261 35	261 35
	Wight, S. B.		Mortgage. 29th Sept., 1866	917 58	917 58
	Wight, S. B.		Pawn on watches	1,387 00	911 17
	Wallace, J. R.		Judgment. 8th Oct., 1867	304 95	304 95
124	Chilton, R. H., Columbus, Ga.		Mortgages. 1 & 29 Sept., 1866	1,664 63	1,664 63
	Taylor, F. C., & Co., Augusta, "		Judgment. 1st April, 1861	188 54	188 54

It will be seen from the table on the opposite side of the sheet that the debts proven are to be paid in full, with the exception of the debt of S. B. Wight, secured by pawn on watches. The watches were sold for 950.50; expenses of sale, 39.33; balance, 911.17, to which S. B. Wight is entitled under the lien.

I hereby certify to the correctness of the above & foregoing.
22nd Sept., 1868.

LAWSON BLACK, *Register.*

In the district court of the United States for the northern district of Georgia, at Atlanta, in said district, on the 22nd day of September, 1868.

IN THE MATTER OF GEORGE JOHNSON. } In bankruptcy.

A list of debts proved and claimed under the bankruptcy of George Johnson, without security, with the dividend to which each is entitled, the same declared thereon this day by Lawson Black, one of the registers in bankruptcy of said court.

	Names of creditors.			
	Angier, N. L.,	Atlanta, Ga.	208 33	42 25
	Adair, G. W.,	" "	250 00	50 70
	Bell, Marcus A.,	" "	129 32	26 20
125	Balk, Julius,	Cincinnatti, Ohio	355 68	72 10
	Clark, R. M.,	De Kalb Co., Ga	86 86	17 60
	Clark, T. M. & R. C.,	Atlanta, "	33 76	6 85
	Cohen, J. L.,	" "	72 70	14 75
	Finney, A. T.,	" "	40 00	8 15
	Gavin, John,	" "	930 27	188 45
	Glen, L. J., & Son,	" "	100 00	20 30
	Hunnicutt & Bellingrath,	" "	49 97	10 15
	Jenkins, J. T.,	" "	19 99	4 05
	King & Atkin,	Knoxville, Tenn	255 78	51 90
	Knowles, G. W.,	Atlanta, Ga	250 00	50 70
	Landsburg & Harris,	" "	192 65	39 10
	McNaught, Ormond & Co.,	" "	84 45	17 15
	Pease, P. P.,	" "	84 20	17 10
	Phillips, W. R.,	" "	600 00	121 61
	Redwine & Fox,	" "	94 70	19 25
	Richardson & Sanford,	" "	53 00	10 75
	Smith & Richmond,	" "	35 17	7 15
	Shaffer, Francis J.,	Louisville, Ky	636 66	134 50
	Wight, S. B.		475 83	96 51
	H. Block			
				1,027 26

126 In the district court of the United States for the northern district of Georgia.

IN THE MATTER OF GEORGE JOHNSON. } In bankruptcy.

Statement of claims proved against the estate of said bankrupt, claiming lien and priority, with the date of priority of each and dividend to which each is entitled, as declared by Lawson Black, register of said court.

W. G. Knowles	Cl'k's wages. First priority	50 00	50 00
Calhoun, J. M., trustee	Vendor's lien	250 50	250 50
Parsons, Edward	Judg't. 5th Oct., 1859	341 11	341 11
Woodgate, J. H	Judg't. 10 July, 1860	152 81	152 81
Kern, J. B., & Co	Judg't. 18 Dec'r, 1860	435 13	435 13
Taylor, F. C., & Co	Judg't. 1 April, 1861	188 54	188 54
Martin & Wood	Judg't. 1 " "	401 53	401 53
Chilton, R. H	Mortgage. 1 & 29 Sept., 1866	1,664 64	1,664 64
Wight, S. B	" 29 " "	917 58	917 58
Woodgate, J. H	Judgm't. 21st Oct., "	299 69	299 69
Loeb, Hirsch & Co	" 17 Dec'r, "	515 74	515 74
Dobbins, M. G., & Co	Mortgage. 31 Jan'y, 1867	490 25	490 25
Phillips, W. R	Judgm't. 24 May, 1867	261 35	261 35
Angier, N. L	Mortgage. 7th August, "	747 57	747 57
Gavin, John	Judgm't. 13 July, "	19 10	19 10
Adair, G. W	Judm't. 10 Aug., "	50 87	50 87
Clayton, J. W., & Co	Judgm't. 10 " "	332 33	332 33
Phillips, W. R	Mortgage. 4 Sept., "	1,058 59	1,058 59
Wight, S. B	Special pawn on watches	1,387 00	911 17
Mayor & council Atlanta	Tax fi. fa. 28th Oct., '67	156 50	156 50
Woodgate, J. H	Judg't. 9th Sept., 1867	1,037 08	307 87
Payments by assignee			465 63
			10,018 50

127 I hereby certify to the correctness of the within and foregoing.
28th Sept., 1868.

LAWSON BLACK, *Register.*

128 In the district court of the United States for the northern district of Georgia.

JOHN T. GLENN & GEORGE W. ADAIR, assignees, *vs.* FREDERICK W. FLYNN, MRS. MARGARET Johnson and George Johnson. } In equity. Bill for relief, &c.

Original interrogatories to be propounded to Frederick W. Flynn, Mrs. Margaret Johnson, and George Johnson, the defendants in the above-stated cause, and who reside in the county of Fulton, in said State of Georgia.

Interrogatory 1st. In what year did you first become acquainted with George Johnson and Mrs. Margaret Johnson? What business was George Johnson then following? What business was Mrs. Margaret Johnson then following?

Interrogatory 2. Did Mrs. Margaret Johnson have any separate means of her own; if yea, in what did said means consist? Did Mrs. Margaret Johnson have any separate business of her own; if yea, in what did said business consist? Where was the defendant George Johnson living, on the 9th day of July, 1863? What business was he engaged in at that time? Was he in a solvent condition at that time?

Interrogatory 3. What business was Mrs. Margaret Johnson then engaged in? In what manner did she earn money by her own labor? What means did Mrs. Johnson have when she married George John-
129 son? What was George Johnson's pecuniary condition, on the 9th day of July, 1863? What was Mrs. Margaret Johnson's pecuniary condition, on that day?

Interrogatory 4. State all facts and circumstances within your knowledge tending to show that Mrs. Margaret Johnson, by her own labor and with her husband's consent, acquired means of her own, prior to the 9th of July, 1863, and since.

GARTRELL & JACKSON,
Def'ts' Sol's.

We except to the first five lines of the 3rd direct int'y, as leading; also to the 4th direct int'y, as being defective in form and substance, and in violation of rule 71, of equity practice. (See Conkling's Treatise, p. 770.) Sept. 7th, 1869.

ARNOLD & BROYLES,
Sol's for Compl'ts.

Cross-interrogatories.

1st X-inter'itory to Flynn. Did you buy the mineral-spring lot from Powell? Did you pay him the money for it? Did you see Mrs. Margaret Johnson pay him the money for it? Did you see George Johnson pay Powell the money for said lot? Did George Johnson or Mrs. Margaret Johnson at any time tell you that George Johnson paid said Powell for said lot?

130 . 2nd X-int'y to Mrs. Margaret Johnson. What is the condition of your health, and what has it been for the last ten years; frail or robust? If you say you ever followed any separate business, state how long you did so & when, and state what business your husband was following at the same time or times. Did your husband ever assist you in your business; if not, why not? Did you ever assist him in his business; if not, why not? Have you any children; if so, please give the number & ages of them.

3 X-int'rr'y to George Johnson. Where were you living, on the 9th of July, 1863? State the place or places you had been living for four years previous to 9th July, 1863; & state how long you had been living at each of said places. State also the business or occupations, if any, which you had been following from July 1860, to July, 1863. State also what occupations or business, if any, your wife had been following for the same time. Did you and she live in the same house during said time? Did you & she always or at any time do business in the same house? Did you ever assist her in her business? Were you in the habit of doing her trading for her, or was she in the habit of doing her own trading? If you did her trading, did you make it known that you were acting only as her agent, or did you trade merely in your own name? How
131 was it? If you traded for your wife or assisted her, why did you do so? Was it because of her feeble health, or because you had nothing else to do?

4th X-int'rr'y. Give a particular statement of all the debts you owed, July 9th 1863. State the names of your then creditors and the sum you owed each one. Were there not judgments against you at that time? If so, state how many & the amount of each. Also please specify the property you then owned. Give a statement of the land & houses you

then owned; also state what personal property you then owned, giving a description of each item; also the number & amount of solvent claims at that time due you, giving the names of your then debtors.

5th X-int'rr'y. Did Mrs. Margaret Johnson, by herself or agent, give in to the tax-receiver, for the year 1863, any property, money, or other thing to be taxed? If so, what did she give in, and how much?

6th X-int'rr'y. Did you or not ever own a storehouse & lot on Whitehall street, in Atlanta, Geo.? If so, did you ever sell it? If so, when did you sell it; to whom did you sell it; & what was the price at which you sold it; & when was the money paid you for it, if ever? Did you not sell it to Charles Powell? Did he not pay you more than four thousand dollars for it in confederate money.

ARNOLDS & BROYLES,
Comp'ts' Sol's.

132 Supreme Court of the United States.

GEORGE W. ADAIR & JOHN T. GLENN, AS assignees of George Johnson, bankrupt,
vs.
FREDERICK W. FLYNN, AS TRUSTEE OF MARgaret Johnson, & George Johnson & his wife, Margaret Johnson.

Bill for relief, &c., in the district court of the United States for the northern district of Georgia.

Know all men by these presents that we, John T. Glenn, & John R. Wallace, of Atlanta, in the State of Georgia, as security, are held & firmly bound unto Frederick W. Flynn, as trustee of Margaret Johnson, George Johnson, & Margaret Johnson, in the sum of two hundred dollars, to be paid to said Frederick W. Flynn, as trustee of Margaret Johnson, George Johnson, & Margaret Johnson, their successors, executors, & administrators; to which payment, well and truly to be
133 made, we bind ourselves & each of us, jointly & severally, & our & each of our heirs, executors, & administrators, firmly by these presents, sealed with our seals, & dated this 2nd day of December, A. D. 1871.

Whereas the above George W. Adair & John T. Glenn, as assignees of George Johnson, bankrupt, have taken an appeal to the Supreme Court of the United States to there reverse the decree rendered in the above-entitled action by the district court of the United States for the northern district of Georgia: Now the condition of this bond is such that if the above-named George W. Adair & John T. Glenn, as assignees of George Johnson, bankrupt, shall prosecute their appeal with effect, & answer all costs if they shall fail to make good their plea, then
134 this obligation to be void; otherwise to remain in full force & virtue.

JOHN T. GLENN, [L. S.]
As assignee in Bankruptcy of George Johnson.
J. R. WALLACE. [L. S.]

Attest:

W. B. SMITH, *Clerk.*

The above & foregoing is a true copy of the original bond retained in this office.

W. B. SMITH, *Clerk.*

Dec. 5, 1871.

135 UNITED STATES OF AMERICA,
Northern District of Georgia, ss:

I, W. B. Smith, clerk of the district court of the United States for the northern district of Georgia, do hereby certify that the preceding and annexed writing is a true and perfect transcript of the record and proceedings remaining in said court in the cause therein mentioned, taken from, and by me carefully compared with, the originals filed and being of record in my office.

In witness whereof I have hereto set my hand and affixed the seal of the said district court, this third day of December, in the year of our Lord one thousand eight hundred and seventy-one.

[SEAL.] W. B. SMITH, *Clerk.*

(Indorsement on cover:) No. 575. John T. Glenn and George W. Adair, assignees of George Johnson, bankrupt, appellants, vs. George Johnson, F. W. Flynn, as trustee for Margaret Johnson, and Margaret Johnson. N. Georgia D. C. U. S. Filed 3d January, 1872.

REC. 575—4

BRIEF FOR APPELLANTS.

SUPREME COURT OF THE UNITED STATES.

No. 113.

JOHN T. GLENN AND GEORGE W. ADAIR, ASSIGNEES OF GEORGE JOHNSON, BANKRUPT, APPELLANTS,

vs.

GEORGE JOHNSON, F. W. FLYNN, AS TRUSTEE FOR MARGARET JOHNSON, AND MARGARET JOHNSON.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA.

BY

E. N. BROYLES AND REUBEN ARNOLD,
SOLICITORS FOR COMPLAINANTS.

ATLANTA, GEORGIA, NOVEMBER 12th, 1873.

SUPREME COURT OF THE UNITED STATES.

No. 113.

JOHN T. GLENN AND GEORGE W. ADAIR, ASSIGNEES OF GEORGE JOHNSON, BANKRUPT, APPELLANTS,

vs.

GEORGE JOHNSON, F. W. FLYNN, AS TRUSTEE FOR MARGARET JOHNSON, AND MARGARET JOHNSON.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA,

BY

E. N. BROYLES AND REUBEN ARNOLD,
SOLICITORS FOR COMPLAINANTS.

ATLANTA, GEORGIA, NOVEMBER 12th, 1873.

JOHN T. GLENN AND GEORGE W. ADAIR, Assignees of George Johnson, Bankrupt,
vs.
GEORGE JOHNSON, FREDERICK W. FLYNN, Trustee for Margaret Johnson, et al.

Bill to set aside fraudulent conveyances of real estate, in Circuit Court of the United States for the Northern District of Georgia.

BRIEF ON BEHALF OF APPELLANTS.

In September, 1868, George Johnson was in Bankruptcy: pp. 45 and 46 of Record.

In 1869, appellants filed their bill alleging the existence of unsatisfied debts and judgments which debts were created before July 9, 1863. For truth of this allegation see pages 45 and 46 of said Record.

That in 1863 George Johnson, being embarrassed in money matters, bought a city lot in Atlanta, Georgia—No. 168, being one acre—from Thos. S. Powell, for $4,000, and had the deed made to Frederick W. Flynn as Trustee for Margaret Johnson, wife of said George. On said

lot, in 1867, said George Johnson had placed valuable improvements worth $2,000.

Prayer: That the conveyance be set aside, the property subjected to payment of the bankrubt's debts; also, that if the conveyance be not adjudged fraudulent, at least the land be charged with the value of the improvements, and the whole sold, and so much of the proceeds as will equal the value of the improvements, be applied as aforesaid.

The defense set up is: Mrs. Johnson bought the lot and made the improvements with her own means, which she had accumulated by her own labor, and with her husband's consent.

This is not a good defense, under the laws of Georgia.

1st. As to the purchase of the land, made in 1863.

By the Code of Georgia, adopted January 1, 1863, the old Common Law rule is adopted, that all the property given to or acquired by the wife during coverture belongs to the husband. Section 1702.

And there is but one exception to this rule which is contained in these words, in section 1704:

"When living separate from her husband, the acquisitions of a wife and her children living with her, shall be vested in the wife for her separate use, free from the debts, etc., of her husband."

But in this case the wife did not life separate from her husband. And the evidence does not show that the wife by herself made anything; but it shows that she and her husband lived together and worked together. 1 Parsons on Contracts, 345. See Record, pages 17, 18, 19, 20, 22, 33, 34, 38, 39, 40, 41, 42, 43.

The agreement attempted by defendants to be set up, that the husband agreed to allow the wife to have all she could make, is voluntary, and not binding on creditors. To make it valid, a consideration must have passed. Her labor was his property, and he could not give it away to the injury of his creditors, especially as his own time and labor were mingled with it. 3 Parsons on Contracts, 345; 2 Story's Equity Jur., ss. 1385, 1386; 3 T. R. 618, 620, note; 1 East. 432; 2 Story's Rep., 312, 321; 2 Brock, 312, 314, 133, 150; 1 Johns Ch., 478; 8 Paige, 161, 172; 1 Bishop on Married Women, s. 783.

The evidence shows that at time of the purchase of the lot, in July, 1863, George Johnson was in debt—judgments standing against him; that he had no other real estate, had only two or three billiard tables, and finally became bankrupt. See Record, pages 17, 45, 46, 19, 20, 24. See Johnson's evidence in reply to 4th Cross Interrogatory, on page 33 of Record.

2d. As to the improvements put on the lot in 1867, worth from $1500 to $3000.

The evidence shows that Johnson had it done—he made the contracts, employed and paid the workmen. See Record, pages 17, 18, 19, 20, 21, 22, 23, (Knowles' evidence) 24, 25, 26.

Not until fall of 1866, by statute then passed, did the wife become entitled to her own acquisitions, and she, in so short time could hardly have made enough to erect said improvements. The evidence does not show she made anything in the meantime, but it shows that Johnson himself did it all.

If the Court thought the original conveyance, in 1863, not void, and that Johnson himself had put the improvements on the lot, the lot should have been charged with the value of the improvements, for the benefit of the Bankrupt's creditors. Bump on Fraudulent Conveyances, p. 267,

citing Isham* *vs.* Schaffer; 60 Barb., 317, Lynde *vs.* McGregor; 13 Allen, 182, Athey *vs.* Knotts; 6 B. Mon., 24.

There is not even a pretense, under the testimony, that Mrs. Johnson put the improvements on the lot. She had not any separate business or any income at the time the improvements were being made. All the testimony on that point shows Johnson paid for the improvements himself, that Mrs. Johnson was living with him, and no proof of any separate estate.

In addition to this lot, which Johnson had procured to be conveyed to Flynn for his (Johnson's) wife, he had a homestead exemption set apart to himself by the Assignees in Bankruptcy.

See bill between marginal figures 5 and 6, on second page. See, also, answers of Flynn, page 6, beginning at sixth line from top. See, also, answer of Mrs. Johnson, third line from top, on page 8.

Johnson denies there were any judgments against him at the time of this conveyance to his wife. But there were four judgments against him, viz:

Judgment, 5th October, 1859, for	$341.11
" 18th December, 1860, for	435.13
" 1st April, 1861, ...	401.53
" 1st April, 1861, ...	188.54
	$1366.31
To interest which has accrued on these judgments up to 9th of July, 1863, the date of deed to Mrs. Johnson, ...	$243.89
	$1610.20

This makes an actual indebtedness in judgments at the time the deed was made to Mrs. Johnson of $1610.20. Not one cent was paid on these judgments, and by the laws of Georgia, these judgments were liens on all the property Johnson owned, and this lien remained until the bankruptcy, and until these proceedings were commenced, and as the lien was never removed, why were not these judgments paid after the war, if Johnson had means and intended to act in good faith toward his creditors?

If he had means either before, or during, or since the war to pay these debts, and refused to pay them, it is evidence that he intended to defraud his creditors.

This schedule of debts is conclusive proof that Johnson was both insolvent and fraudulent. It shows he was covered with judgments, mortgages, and liens, when he went into bankruptcy of over $10,000.00. That he in addition was owing unsecured debts to amount of upwards of $5000.00.

At the time of the conveyance to his wife, the four judgments were standing over him. One had been over him ever since the 5th of October, 1859, and he had this deed made to his wife to prevent these judgments from being levied on it; we have the right to presume, and the law does presume conclusively, that the deed to Mrs. Johnson was to defraud the creditors of the Bankrupt. George Johnson swears, that at the time this deed was made to his wife, on the 9th of July, 1863, he had no real estate; that he had three billiard tables, ordinary household and kitchen furniture, one horse, and two cows and calves.—See his deposition, page 33, answer to 4th Cross Interrogatory. And at that time judgments

against him amounting to upwards of $1610.00. And being so indebted, he procures $4000.00 worth of property, to be placed in his wife's name, and swears he was solvent. How could he be solvent with these four unsatisfied judgments against him, and which were not paid prior to his bankruptcy? If he was solvent, he was dishonest, and intended to perpetrate a fraud. But we are forced to the conclusion that he was insolvent all the time. According to his own statement he did not, when he procured this deed to his wife, own one foot of realty; but he did own two cows and their two calves, and four billiard tables, and household and kitchen furniture. All this property was exempt, by the laws of Georgia, to the head of a family, except the billiard tables, and the billiard tables were of no value to Johnson's creditors.

As to the liens of judgments in Georgia, see Revised Code, sec. 3580, which provides that, "All judgments in the Superior, Justices', or other Courts of this State, shall be of equal dignity, and shall bind all property of the defendant, both real and personal, from the date of such judgment," &c,

We insist this property, both land and improvements, are liable for the debts of the Bankrupt, George Johnson; and that the decree of the Court below should be reversed, and the prayer of the Assignees granted to sell this property to pay the Bankrupt's debts.

E. N. BROYLES, and
REUBEN ARNOLD,
Solicitors for Complainants.

Atlanta, Ga., November 12th, 1873.